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**IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE**

**CHRISTA GAIL PIKE,** )  
 )  
**Plaintiff,** )  
 )  
 v. )  
 )  
**JONATHAN SKRMETTI, Attorney** )  
**General and Reporter, State of** )  
**Tennessee, in his official capacity,** )  
 )  
**and** )  
 )  
**FRANK STRADA, Commissioner,** )  
**Tennessee Department of Correction** )  
**in his official capacity,** )  
 )  
**and** )  
 )  
**KENNETH NELSEN, Warden,** )  
**Riverbend Maximum Security** )  
**Institution, in his official capacity,** )  
 )  
**and** )  
 )  
**JORDAN CLARK, Warden,** )  
**Debra K. Johnson Rehabilitation** )  
**Center, in his official capacity,** )  
 )  
**Defendants.** )

No. 26-0027-III

**Death Penalty Case**  
**(Execution Set for**  
**September 30, 2026)**

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**COMPLAINT**

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The Plaintiff, Christa Gail Pike, files this complaint for violations of the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

## Introduction

Finding a vein has been a persistent problem for executioners ever since the adoption of lethal injection as an execution method in 1982. In 2014, Oklahoma prisoner Clayton Lockett was subjected to a torturous hour of executioners trying to find a vein, until they eventually used a vein in his groin area. After that, it took 43 minutes after the injection of chemicals for Lockett to die of a heart attack.<sup>1</sup> In 2014 in Arizona, Joseph Wood repeatedly gasped for one hour and 40 minutes after the injection of chemicals. A media witness counted 640 gasps from Wood as he was dying.<sup>2</sup> During his execution in Oklahoma in 2014, Michael Lee Wilson stated, “I feel my whole body burning” after being injected with a cocktail of pentobarbital, vecuronium bromide, and potassium chloride.<sup>3</sup> In 2016, Georgia officials struggled to locate a vein for 45 minutes during the execution of Brandon Jones. In 2022, during Alabama’s gruesome execution of Joe Nathan James, it took executioners approximately 3 hours to set an IV, before attempting a “cut-down” procedure. An autopsy revealed injuries on his hands and wrists. A doctor who attended James’ autopsy said the execution team “was unqualified for the task in a most dramatic

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<sup>1</sup> Eric Eckholm, *One Execution Botched, Oklahoma Delays the Next*, N.Y. Times (Apr. 29, 2014); Cary Aspinwall & Ziva Branstetter, *Secrets Still Shroud Clayton Lockett’s Execution*, Tulsa World (May 11, 2014).

<sup>2</sup> Bob Ortega, Michael Kiefer & Mariana Dale, *Execution of Arizona Murderer Takes Nearly 2 Hours*, The Republic (July 23, 2014) (available at [www.azcentral.com/story/news/local/arizona/2014/07/23/arizona-execution-botched/13070677/](http://www.azcentral.com/story/news/local/arizona/2014/07/23/arizona-execution-botched/13070677/) (last accessed Jan. 7, 2026)).

<sup>3</sup> Charlotte Alter, *Oklahoma Convict Who Felt “Body Burning” Executed with Controversial Drug*, Time (Jan. 10, 2014) (available at <https://nation.time.com/2014/01/10/oklahoma-convict-who-felt-body-burning-executed-with-controversial-drug/> (last accessed Jan. 7, 2026)).

way.”<sup>4</sup> Also in 2022, Arizona prison staff struggled for 25 minutes to insert the IV into Clarence Dixon’s arms, eventually resorting to a cut-down procedure in the groin. A media witness observed the staff had to “wipe up a fair amount of blood.”<sup>5</sup> In the same year, Arizona prison staff had to insert a catheter into Murray Hooper’s femoral artery (in the groin area) after trying for 20 minutes to locate a vein in both of his arms.<sup>6</sup> In 2024, after 58 minutes of executioners’ failed attempts at IV insertion, Idaho prisoner Thomas Creech was returned to his cell and the execution was called off.<sup>7</sup>

Tennessee’s new lethal injection protocol, calling for a single drug (pentobarbital), is plagued with the same issues that have marked botched executions for decades: secrecy, intentional omission, inattention to detail, and untrained and unlicensed prison personnel attempting to fill a medical role. As the State of Tennessee seeks to execute its first woman in 250 years, and the only woman on Tennessee’s death row—Christa Gail Pike—those problems have come to a head.

The new protocol, as applied to the Plaintiff and her unique medical conditions, is unconstitutional under the United States Constitution and the Tennessee

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<sup>4</sup> Elizabeth Bruenig, *Dead to Rights*, The Atlantic (Aug. 14, 2022); Amy Yurkanin & Joe Nathan, *James ‘Suffered a Long Death’ in Botched Alabama Execution*, *Magazine Alleges*, AL.com (Aug. 14, 2022).

<sup>5</sup> Equal Justice Initiative, *Arizona Executes a Blind, Disabled Man Previously Found Legally Insane* (May 11, 2022) (available at <https://eji.org/news/clarence-dixon-execution-arizona/> (last accessed Jan. 7, 2026)).

<sup>6</sup> Bob Christy & Jaques Billeaud, *Arizona executes man for 1980 killings of 2 people* (Assoc. Press, Nov. 16, 2022) (available at <https://apnews.com/article/arizona-executions-f999919f50df1158b8dc2f4c03915842> (last accessed Jan. 7, 2026)).

<sup>7</sup> Death Penalty Information Center, *Botched Executions* (last updated Oct. 26, 2025) (available at <https://deathpenaltyinfo.org/executions/botched-executions> (last accessed Jan. 7, 2026)).

Constitution. Tennessee's execution protocol further violates the Eighth Amendment because it fails to provide a contingency plan with emergency medical services on-site in the event of a botch. This violation applies to electrocution as well as lethal injection.

Because of these failures the new protocol and is sure or very likely to result in unnecessary and superadded pain and suffering, terror, and disgrace as applied to the Plaintiff.

### Parties

1. The Plaintiff Christa Gail Pike is a United States citizen. She is a death-sentenced prisoner residing at the Debra K. Johnson Rehabilitation Center in Nashville, Davidson County, Tennessee, and in the custody of the Tennessee Department of Correction ("TDOC").

2. The Defendant Jonathan Skrmetti is the Attorney General and Reporter of the State of Tennessee, the state agency located in this District in Nashville, Davidson County, Tennessee. The Plaintiff sues Attorney General Skrmetti in his official capacity as to **Count IV** only. The Attorney General and Reporter has previously filed motions to set the Plaintiff's execution date under Tenn. Sup. Ct. R. 12(4)(A). Additionally, as counsel for the Defendants Strada and Nelsen, the Defendant Skrmetti, through his agents, successors, and assigns, entered into the Agreement filed in *King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.) and *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.). The Defendant Skrmetti is a state actor acting under color of state law, and his action refusing to

enter into a similar agreement with the Plaintiff violates her constitutional and statutory rights.

3. The Defendant Frank Strada is the Commissioner of the TDOC, the state agency located in Nashville, Tennessee. The Plaintiff sues Commissioner Strada in his official capacity. Upon information and belief, the Defendant Strada will oversee the administration of the Plaintiff's execution. The Defendant Strada is a state actor acting under color of state law, and his actions in executing the Plaintiff violate her constitutional and statutory rights.

4. The Defendant Kenneth Nelsen is the Warden of Riverbend Maximum Security Institution in Nashville, Tennessee, at which the execution of the Plaintiff will occur. The Plaintiff sues Warden Nelsen in his official capacity. Upon information and belief, the Defendant Nelsen is directly responsible for executing the Plaintiff at RMSI. The Defendant Nelsen is a state actor acting under color of state law, and his actions in executing the Plaintiff violate her constitutional and statutory rights.

5. The Defendant Jordan Clark is the Warden of the Debra K. Johnson Rehabilitation Center in Nashville, Tennessee, where the Plaintiff is held in custody under sentence of death. The Plaintiff sues Warden Clark in his official capacity. Upon information and belief, the Defendant Clark is directly responsible for executing the Plaintiff. The Defendant Clark is a state actor acting under color of state law, and his actions in executing the Plaintiff violate her constitutional and statutory rights.

### Jurisdiction and Venue

6. This Court has jurisdiction under Tennessee Code Annotated §§ 29-14-103 and 113.

7. Exhaustion of administrative remedies is not required or would be futile. Nevertheless, the Plaintiff grieved the protocol and the Defendants have denied the Plaintiff's grievance by stating that the grievance of the protocol is not proper.

8. The Plaintiff Pike is incarcerated at the Debrah K. Johnson Rehabilitation Center, and the Defendants will execute the Plaintiff at Riverbend Maximum Security Institution, both of which are located in Nashville, Davidson County, Tennessee, where this Court is located.

### Facts

9. On December 27, 2024, the TDOC announced that it had completed its review of the lethal injection protocol, resulting in a new protocol calling for the single drug pentobarbital. See Press Release, attached as **Exhibit 1**; TDOC Lethal Injection Execution Protocol, attached as **Exhibit 2**.

10. The Defendant Strada stated that he was "confident the lethal injection process can proceed in compliance with departmental policy and state laws." (Ex. 1).

11. The new protocol followed the Report and Findings of the Independent Review ordered by Governor Lee following the attempted execution of Oscar Franklin Smith in April 2022. See R. and Findings of the Indep. Rev., attached as **Exhibit 3**.

12. The Report and Findings of the Independent Review identified many problems with Tennessee's implementation of its prior protocol, including:

- The State of Tennessee never provided the pharmacy tasked with testing its lethal injection chemicals with a copy of the lethal injection protocol;
- No employee of the TDOC informed the pharmacy tasked with testing the lethal injection chemicals that it should conduct an endotoxin test until the eve of Oscar Smith's scheduled execution;
- The pharmacy that tested Tennessee's lethal injection chemicals only tested the chemicals for potency and sterility, not endotoxins, because the pharmacy followed United States Pharmacopeia testing guidelines, not Tennessee's lethal injection protocol;
- The chemicals used in the execution of Billy Ray Irick in August 2018 were not tested for endotoxins, and the Midazolam used during Irick's execution was not tested for potency;
- The chemicals to be used in the event that Edmund Zagorski opted for lethal injection in November 2018 were not tested for endotoxins and failed potency testing;
- The chemicals used in the May 2019 execution of Donnie Edward Johnson were not tested for endotoxins;
- The chemicals to be used in the event that Stephen West opted for lethal injection in August 2019 were not tested for endotoxins;
- The chemicals to be used in the event that Lee Hall opted for lethal injection in December 2019 were not tested for endotoxins; and that
- The chemicals to be used in the event that Nicholas Sutton opted for lethal injection in February 2020 were not tested for endotoxins.

13. The Independent Review concluded that there was an "absence of adequate expertise, guidance, and counsel either enlisted by or provided to TDOC in connection with Tennessee's lethal injection process. Instead, TDOC operated in a

task-oriented, tunnel-vision manner that failed to appreciate the interwoven nature of the lethal injection process as a whole.” (Ex 3 at 39).

14. Tennessee’s new lethal injection protocol does not remedy the issues identified in the Independent Review.

15. Additionally, the new lethal injection protocol is devoid of detail, omits certain information, or is otherwise vague.

16. Because of the Defendants’ actions, the Plaintiff is deliberately made unaware of whether the pentobarbital is compounded or manufactured; made unaware of whether the pentobarbital is expired (or will be by the date of her execution); and made unaware of whether the pentobarbital will be tested or the results of the testing.

**A. Allegations about the new lethal injection protocol.**

17. The new protocol is 44 pages, compared to the previous 106-page protocol.

18. The new protocol does not state the source of the pentobarbital supplier, the procurement process or method—whether legitimate or through the gray or black market—or whether the pentobarbital is compounded or manufactured.

19. The Defendants arbitrarily and as a matter of policy deny records requests for public records related to the new lethal injection protocol in violation of the plain language of the Tennessee Public Records Act, codified at Tennessee Code Annotated § 10-7-504(h).

20. The new protocol allows the Defendant Strada to arbitrarily and capriciously change the protocol “when deemed necessary to effectuate” its purpose. (Ex. 3). Any such change is a violation of the laws and rights declared herein.

21. Upon information and belief, transportation of lethal injection chemicals across state lines violates state and federal law. The Plaintiff reserves the right to amend this Complaint if discovery shows that the Defendants are engaged in the unlawful transportation of lethal injection chemicals.

22. The new protocol makes vague reference to quality assurance and quality control testing, but the Plaintiff is deliberately and unconstitutionally made unaware of the specific testing and regulatory requirements that the Defendants are subject to in their handling and administration of pentobarbital for lethal injection.

23. The new protocol vaguely references that the Defendants will follow recommended guidelines for safe transportation and storage of pentobarbital. However, without information on whether the pentobarbital is compounded, manufactured, or procured legitimately or through the gray or black market, the source of the pentobarbital, and the specific regulations that apply to it, the Plaintiff cannot sufficiently challenge the new protocol. The Plaintiff reserves the right to amend this Complaint if discovery reveals information supporting this allegation.

24. The new protocol requires the selection of a method of execution thirty days prior to the scheduled execution.

25. The selection of electrocution results in an isolation or “death watch” period of three days. The selection of lethal injection results in an isolation period of fourteen days.

26. If the Plaintiff refuses to choose a method of execution for any reason, the default method is lethal injection.

27. The isolation of the Plaintiff for fourteen days is cruel and unusual punishment given her specific medical conditions as set forth below.

28. The selection criteria for the members of the execution team are vague, subjective, and secretive.

29. The selection criteria for specially trained non-department personnel are vague, subjective, and secretive.

30. The new protocol calls for physician assistance during the execution, violating the American Medical Association’s code of ethics.

31. The new protocol allows for the placement of a “central line.” However, upon information and belief, the Defendants do not have the medical personnel or equipment, and cannot secure the same, in order to place a “central line.”

32. The new protocol’s limitation on “clergy” presence during the execution excludes the Plaintiff’s spiritual advisor and restricts the practice of the Plaintiff’s sincerely held religious belief of Buddhism. These actions violate the Plaintiff’s rights under the First Amendment of the United States Constitution, Article I of the Tennessee Constitution, the Religious Freedom Restoration Act of 1993 (RFRA), the Tennessee Preservation of Religious Freedom Act codified at Tennessee Code

Annotated § 4-1-407, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

33. The new protocol's restriction on the presence of "clergy" substantially burdens the Plaintiff's right to free exercise of religion and there is no legitimate government interest in such a burden.

34. The new protocol does not provide for any life saving measures, in violation of the Plaintiff's rights under the United States Constitution and the Tennessee Constitution in the event that the execution fails.

35. Additionally, the new protocol severely limits the Plaintiff's right to liberty in the final 12 hours of her life by instituting a "blackout policy."

36. Specifically, the new protocol imposes arbitrary restrictions on the right of an individual to communicate with the outside world, including their clergy or spiritual advisor, during the final 12 hours prior to his or her scheduled execution. Such communications are made or scheduled arbitrarily and capriciously by the Defendants.

37. There is no provision for providing the Plaintiff or Plaintiff's counsel with notice upon the Commissioner's unilateral decision to change the protocol when "deemed necessary," or any ability or procedure for the Plaintiff to challenge such changes, in violation of due process.

38. The administration of the revised protocol, as written, would be haphazard and arbitrary and presents a risk that is sure or very likely to cause

serious illness and needless suffering and constitutes cruel and usual punishment under the United States Constitution and the Tennessee Constitution.

## **II. Allegations about the use of pentobarbital.**

39. Tennessee intends to use a single drug pentobarbital (100 ml of a 50 mg/ml solution (a total of 5 grams)) to execute the Plaintiff.

40. The use of pentobarbital in lethal injections causes flash (acute) pulmonary edema as it enters the blood stream and passes through the lungs and burns the membranes of the lungs. Fluid then enters the lungs causing a drowning sensation akin to waterboarding. The drowning sensation is “one of the most powerful, excruciating feelings known to man.” *See* Dept. of Justice Review of Fed. Execution Protocol, at 14 (Jan. 2025), attached as **Exhibit 4**.

41. The injection of pentobarbital itself can “cause extreme pain upon [ ] injection.” *See* Ex. 4 at 14. It can also “damage the veins in the body, causing the drug to leak into the surrounding tissues,” causing “significant excruciating pain.” *See* Ex. 4 at 14–15.

42. Pentobarbital is a barbiturate that causes unresponsiveness but not unconsciousness. As a result, even if a prisoner appears drowsy upon injection of the pentobarbital, they are sharply awakened with the sensation of drowning and are very likely conscious and being tortured as they are executed.

43. Because pentobarbital causes extreme and superadded physical pain and acute mental terror, and as specifically applied to the Plaintiff, its use constitutes

cruel and unusual punishment under the United States Constitution and the Tennessee Constitution.

44. Only ten states have approved the use of a one-drug pentobarbital protocol, and its use is relatively new and untested in violation of the original meaning of the Eighth Amendment.<sup>8</sup>

45. Tennessee has executed three prisoners using the one-drug pentobarbital protocol, including Byron Black and Harold Wayne Nichols.

46. According to media witnesses, Byron Black moaned and made a statement expressing pain during his execution. *See* Catherine Sweeney, *Autopsy sheds light on Byron Black's painful execution*, WPLN News (Sept. 11, 2025); Travis Loller, *Attorneys say electrocardiogram at Tennessee execution was active after inmate was pronounced dead*, Associated Press (Oct. 24, 2025), attached as collective **Exhibit 5**.

47. Black's autopsy showed that he experienced pulmonary edema and that his heart continued to beat for at least two minutes after pronouncement of death. (Ex. 5).

48. According to media witnesses, Harold Wayne Nichols sighed, groaned and breathed heavily for one minute during his execution. *See* Catherine Sweeney, *Tennessee executes Harold Wayne Nichols in third lethal injection of the year*, WPLN News (Dec. 11, 2025), attached as **Exhibit 6**.

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<sup>8</sup> Death Penalty Information Center, *State-by-State Execution Protocols* (available at <https://deathpenaltyinfo.org/executions/methods-of-execution/state-by-state-execution-protocols> (last accessed Jan. 7, 2026)).

49. Pentobarbital executions in other states have resulted in similar pain and suffering. When South Dakota executed Eric Robert by pentobarbital in 2012, he gasped heavily and snorted loudly with his eyes open, his skin turning purple.<sup>9</sup> Benjamin Ritchie violently lurched against his restraints during his execution by pentobarbital in Indiana in 2025.<sup>10</sup>

50. The use of pentobarbital generally, and as applied to the Plaintiff, causes a torturous and lingering death and is sure or very likely to result in unnecessary and superadded pain and suffering, terror, and disgrace in violation of the United States Constitution and the Tennessee Constitution.

### **III. Specific allegations related to the Plaintiff.**

51. The Plaintiff Pike presents with individual physical characteristics that include, but are not limited to, Thrombocytopenia/Thrombocytosis, Bipolar disorder, Post Traumatic Stress Disorder, hyperlipidemia, and small veins that make insertion of a needle difficult. *See* Declaration of J. Zivot, M.D., attached as **Exhibit 7**.

52. Thrombocytopenia/Thrombocytosis is a blood condition “characterized by a marked elevation in platelet levels.” (Ex. 7). A high platelet count can “lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as the von Willebrand Factor.” (Ex. 7).

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<sup>9</sup> Cassandra Stubbs, *Failed Experiments: Stop All Executions Now*, ACIU (May 1, 2014) (available at [www.aclutx.org/en/news/failed-experiments-stop-all-lethal-injections-now](http://www.aclutx.org/en/news/failed-experiments-stop-all-lethal-injections-now) (last accessed Jan. 7, 2026)).

<sup>10</sup> Casey Smith, *State executes death row inmate Benjamin Ritchie for fatal shooting of police officer*, Indiana Capital Chronicle (May 20, 2025) (available at <https://indianacapitalchronicle.com/2025/05/20/state-executes-death-row-inmate-benjamin-ritchie-for-fatal-shooting-of-police-officer/> (last accessed Jan. 7, 2026)).

53. The Plaintiff's thrombocytosis is likely due to a rare form of blood cancer called myeloproliferative disorder. (Ex. 7).

54. Because of her severe medical condition, executing the Plaintiff by pentobarbital will "very likely produce an even more severe pattern of bloody froth in the lungs. This is death by drowning in one's own blood." (Ex. 7).

55. The Plaintiff's individual physical characteristics make it sure or very likely that there is a substantial risk that she will experience unnecessary and superadded pain and suffering, terror, and disgrace.

56. The Plaintiff's mental health conditions also make it sure or very likely that she will decompensate "to the point of a loss of agency and be unable to undergo an execution on that basis." (Ex. 7).

57. Treating the Plaintiff's mental health condition "to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place." (Ex. 7).

58. The Plaintiff also has a history of difficulty with blood draws and needle insertion. Prison medical staff often use a butterfly needle on her arm to draw blood because her veins are so difficult to access. The Plaintiff's physical characteristics will make it significantly more difficult to achieve and/or maintain the peripheral IV access on the Plaintiff that is needed to ensure proper delivery of the pentobarbital.

59. The Plaintiff Pike's individual physical characteristics make it sure or very likely that there is a substantial risk that she will be subjected to unnecessary and serious pain as the Defendants attempt to achieve peripheral IV access on her

during the execution process. When the Defendants are unable to maintain peripheral IV access on her, the Plaintiff's individual physical characteristics make it sure or very likely that there is a substantial risk that the Plaintiff's individual physical characteristics will interfere with the proper delivery of the pentobarbital.

60. Improper delivery of the pentobarbital including, but not limited to, vein damage and leakage, presents a risk that is sure or very likely to cause serious illness, needless suffering, and/or prolonged or lingering death.

61. Additionally, the Plaintiff Pike may develop or may currently have additional physical and/or psychological characteristics, increasing the sure or very likely risk of unnecessary and serious harm caused by the new lethal injection protocol.

62. The new protocol fails to account for any unique physical characteristics of the Plaintiff that may affect the efficacy of or the risk of harm caused by the new protocol.

63. The new protocol also fails to account for any unique psychological or mental characteristics of the Plaintiff that may affect the efficacy of or the risk of harm caused by the new protocol.

#### **IV. Allegations related to the requirement to plead an alternative.**

64. Tennessee's adoption of the execution secrecy provisions in Tennessee Code Annotated § 10-7-504(h) and the Defendants' heavy redaction of the new protocol will substantially, if not entirely, impair the Plaintiff's ability to allege and prove alternate execution methods and procedures. The Plaintiff reserves the right

to argue that any alleged defects in these allegations and/or proof with respect to such issues are the result of the secrecy imposed by the statute and the Defendants, and not any failure by the Plaintiff, and to amend this pleading.

65. The Plaintiff asserts that any requirement that she plead an alternative method of execution likewise violates the Eighth Amendment because there was no such requirement when the Eighth Amendment was ratified in 1791 nor when the Fourteenth Amendment was ratified in 1868, and thus no such requirement can, or does, exist now.

66. Additionally, the Plaintiff asserts that any alternative method pleading requirement violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution and Article I of the Tennessee Constitution because imposition of such a requirement in a free nation shocks the conscience and offends principles of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental, where no such requirement existed at common law or at the founding of the Nation.

67. The Plaintiff further asserts that the alternative method pleading requirement violates her rights to conscience and/or to the free exercise of religion under the First Amendment of the United States Constitution, Article I of the Tennessee Constitution, the Religious Freedom Restoration Act of 1993 (RFRA), the Tennessee Preservation of Religious Freed Act codified at Tennessee Code Annotated § 4-1-407, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

68. The Plaintiff is a practicing Buddhist and the requirement that she plead an alternative method violates her sincerely held religious beliefs against participating in any process leading to her own death.

69. Notwithstanding any allegation of an alternative execution method asserted in this Complaint, the Plaintiff cannot be required to plead or prove an alternative method of execution because such a requirement is a substantial burden on her sincerely held religious beliefs, does not further a compelling governmental interest, and is not the least restrictive means for the government to accomplish its stated interest.

70. Notwithstanding any allegation of an alternative execution method asserted in this Complaint, the Plaintiff asserts that she is unable to constitutionally allege an alternative method or manner of execution because she is insufficiently competent to be able to knowingly and willingly instruct the Defendants how to kill her or, in the alternative, is insufficiently competent to assist her attorneys in identifying an alternative method or manner of execution because she has insufficient medical training and knowledge to be able to identify such an alternative or because her mental health impairments or cognitive deficiencies or intellectual disabilities render her unable to do so.

71. If the Plaintiff must allege alternative methods of execution, she alleges that the following alternative is feasible, readily implemented, and in fact significantly reduce a substantial risk of severe pain as presented in the new protocol.

72. The Plaintiff, by alleging this alternative, alleges only that the alternative in question is available in all relevant respects and subjects her to substantially less risk of experiencing severe or serious pain and needless suffering than the risk posed by the current execution method the Plaintiff challenges.

73. The reduction in risk of severe or serious pain and suffering created by the alternative is clear and considerable in comparison to the level of risk of severe pain and suffering created by the current execution method.

74. Similarly, the reduction in level of severity of pain and suffering created by the alternative is clear and considerable in comparison to the level of severity of pain and suffering created by the current execution method.

75. The Plaintiff also alleges that the pain and suffering inflicted by the new protocol is more than necessary to carry out a death sentence and is therefore “superadded” pain and suffering that the United States Constitution and Tennessee Constitution and forbid.

**A. Alternative 1: Use of butterfly needle.**

76. The Plaintiff Pike has a history of difficulty with blood draws and needle insertion. Prison medical staff often use a butterfly needle on her arm to draw blood because her veins are so difficult to access.

77. The new protocol does not provide for the use of a butterfly needle to achieve and/or maintain peripheral IV access.

78. The new protocol does not provide for medical staff to achieve and/or maintain peripheral IV access.

79. The Plaintiff's physical characteristics will make it significantly more difficult to achieve and/or maintain peripheral IV access on the Plaintiff, which is needed to ensure proper delivery of the pentobarbital.

80. Use of a butterfly needle, inserted by qualified and trained medical staff, is a feasible and readily implemented alternative that significantly reduces the substantial risk of unnecessary pain and suffering posed by the new protocol.

81. The Defendants possess or have within their control, or could readily obtain, the medical equipment and personnel necessary to achieve and/or maintain peripheral IV access with a butterfly needle because the prison medical staff regularly use a butterfly needle on the Plaintiff currently.

82. This alternative significantly reduces a substantial risk of unnecessary and severe or superadded pain, terror, or disgrace when compared to the new protocol.

### **Count I:**

**Tennessee's new protocol is unconstitutional as applied to the Plaintiff given her serious medical conditions in violation of the Eighth Amendment to the United States Constitution and Article I of the Tennessee Constitution.**

83. The new protocol is unconstitutional in the way that it will be applied to the Plaintiff because of her serious medical conditions including, but not limited to, Thrombocytopenia/Thrombocytosis, Bipolar disorder, Post Traumatic Stress Disorder, hyperlipidemia, and small veins that make insertion of a needle difficult. (Ex. 7).

84. The Plaintiff suffers from Thrombocytopenia/Thrombocytosis, a blood condition “characterized by a marked elevation in platelet levels.” (Ex. 7).

85. “A very high platelet count can . . . lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as von Willebrand Factor.” (Ex. 7).

86. The Plaintiff’s platelet count is significantly elevated, likely due to a rare form of blood cancer called myeloproliferative disorder. (Ex. 7).

87. Because of her severe medical condition, the Plaintiff will suffer even more extreme pulmonary edema than the typical prisoner because of her platelet disorder and predisposition to abnormal clotting. Executing the Plaintiff by lethal injection would likely cause “an even more severe pattern of bloody froth in the lungs.” (Ex. 7).

88. The Plaintiff also suffers from Bi-Polar Disorder and Post Traumatic Stress Disorder. The imminent threat of execution is sure or very likely to cause her mental health to deteriorate to the point of loss of agency and incompetency to withstand execution. *Ford v. Wainwright*, 477 U.S. 399 (1986). *See also Panetti v. Quarterman*, 551 U.S. 930, 932 (2007).

89. The Plaintiff’s severe medical conditions make it sure or very likely that her execution will result in unnecessary and superadded pain and suffering, terror, and disgrace.

90. The new protocol makes no provision for the Plaintiff's serious medical conditions in violation of the Eighth Amendment's prohibition on cruel and unusual punishment and the Tennessee Constitution.

**Count II:**

**Tennessee's new protocol is unconstitutional because it does not provide for the provision of medical care, or the resuscitation of a prisoner in the event of a failed execution in violation of the Eighth Amendment to the United States Constitution and Article I of the Tennessee Constitution.**

91. All prisoners have the constitutional right to comprehensive medical care during their incarceration. *Estelle v. Gamble*, 429 U.S. 97, 102 (1976).

92. That constitutional right continues to apply during any attempt to execute the Plaintiff.

93. "If a prisoner survives an attempt at execution but suffers sub-lethal injuries that, without treatment, will or may lead to death or disability, that prisoner must receive medical care, and the warden is under a duty to provide it." (Ex. 7).

94. "If a prisoner survives an execution attempt, the duty requiring the delivery of necessary health care is revived, if it was ever set aside." (Ex. 8). This also applies to other execution methods, including the electric chair, that may involve a lingering death. *See In re Kimmler*, 136 U.S. 436, 447 (1890).

95. Accordingly, the United States Constitution and Tennessee Constitution require the Defendants to have in place the capacity to resuscitate a prisoner.

96. A resuscitation team should include a physician "not in the employ of TDOC" with "unrestricted access to the technique of execution to plan all the

necessary countermeasures for the best chance at reviving the prisoner.” (Ex. 8). Additionally, an “ICU ambulance must be on hand to deliver the full measure of necessary resuscitative measures.” (Ex. 8).

97. The Tennessee protocol does not provide for the provision of medical care or resuscitation in the event of a failed execution, whether it is by electrocution or lethal injection. Rather, the new protocol requires that the steps initiating the execution be repeated.

98. The Defendants have no procedure to evaluate the cause of the failure of the first attempt. Nor does the protocol have a procedure to do so. Rather, in the event the first attempt fails to execute the prisoner, the new protocol requires the preceding steps to be repeated.

99. There is a readily available and feasible alternative for a contingency procedure in the execution protocol in the State of Arizona. *See Arizona Execution Protocol*, attached as **Exhibit 8**, at 7-8.

100. Attempting to execute the Plaintiff without a procedure or mechanism to provide medical care or resuscitation makes it sure or very likely that the Plaintiff’s execution will result in unnecessary and superadded pain and suffering, terror, and disgrace or lingering death.

**Count III:**

**The imposition of a fourteen-day isolation period unless the method of death by electrocution is selected is arbitrary and capricious and violates the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.**

101. Requiring the Plaintiff to select a method of execution violates her rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

102. The selection of electrocution results in an isolation or “death watch” period of three days. The selection of lethal injection results in an isolation period of fourteen days.

103. If the Plaintiff refuses to choose a method of execution for any reason, the default method is lethal injection.

104. Forcing the Plaintiff to select a method of execution violates her rights under the First Amendment. However, the new protocol leaves her no choice other than to select a method of execution to assert her Eighth Amendment right against isolation for fourteen days. The new protocol arbitrarily and capriciously forced the Plaintiff to sacrifice one constitutional protection to enforce another and serves no legitimate purpose, has no rational relation to any government purpose, and violates her rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

105. The isolation of the Plaintiff for fourteen days is also cruel and unusual punishment given her specific medical conditions.

106. Specifically, the Plaintiff's Bipolar disorder and Post Traumatic Stress Disorder make it sure or very likely that her isolation will result in unnecessary and superadded pain and suffering, terror, and disgrace.

107. It also makes it sure or very likely that her mental health will deteriorate to the point of loss of agency and incompetency to withstand execution. *Ford v. Wainwright*, 477 U.S. 399 (1986); *see also Panetti v. Quarterman*, 551 U.S. 930, 932 (2007).

**Count IV:**

**The execution of the Plaintiff while two similarly situated prisoners enjoy the benefit of a deal struck with the Defendants violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment and Article I of the Tennessee Constitution.**

108. After the failed attempt to execute Oscar Franklin Smith in April 2022, two Tennessee death row prisoners with legal challenges pending to the then-three-drug protocol, Terry King and Donald Middlebrooks, reached an agreement with the State to stay their cases. *See King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.) (Doc. 220, PageID#: 12749); *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.) (Doc. 219, PageID#: 12737).

109. As part of the motion to stay those cases, the parties also submitted an agreement reading, in relevant part:

A motion to set King's execution date will not be filed pursuant to Tenn. Sup. Ct. R. 12(4)(A) until a judgment is entered by the district court in case number 3:18-cv-01234 (M.D. Tenn.) or, in the event of an appeal from that judgment, until an opinion is issued by a panel of the United States Court of Appeals for the Sixth Circuit. . . .

In the event Middlebrooks's execution date is reset before the conclusion of a trial or other disposition of his complaint in case number 3:19-cv-01139 (M.D. Tenn.), Defendants will not oppose a motion for stay of execution for Middlebrooks filed in that district court case until a judgment is entered by the district court in that case or, in the event of an appeal, a motion for stay of execution filed under the relevant case number in the Sixth Circuit until an opinion is issued by a panel of the Sixth Circuit. If such a motion for stay is denied, Defendants also agree to advocate for another reprieve from the Governor until a judgment is entered by the district court or, in the event of an appeal, an opinion has been issued by a panel of the Sixth Circuit.

*See* Agreement, attached as **Exhibit 9**.

110. The Plaintiff is a class-of-one, in that she is a similarly situated death-row prisoner to Terry King and Donald Middlebrooks, residing in Nashville, Davidson County, Tennessee, and in the custody of the TDOC.

111. The Defendants have refused to extend any agreement to the Plaintiff staying her execution so that she may challenge the new protocol.

112. By giving Terry King and Donald Middlebrooks the benefit of a stay so that they may challenge the new protocol, but denying it to the Plaintiff as a similarly situated prisoner in the custody of the TDOC residing in Nashville, Davidson County, Tennessee, the Defendants are unequally applying the laws against the Plaintiff here or denying the Plaintiff the equal protection of the laws, in violation of the Fourteenth Amendment to the United States Constitution and Article I of the Tennessee Constitution.

113. The Defendants' decision to deny similarly situated death row prisoners the equal protection of the laws lacks any rational basis.

114. The Defendants have not claimed, and indeed cannot show, any rational basis as to why two prisoners should not be executed in order to challenge the new protocol, while others, including the Plaintiff here, should be denied that right.

115. The Plaintiff has been intentionally treated differently from other similarly situated death row prisoners in violation of the Equal Protection Clause of the Fourteenth Amendment.

### **Prayer for Relief**

Accordingly, the Plaintiff requests that this Court:

A. Declare that the new protocol, as applied to the Plaintiff, is unconstitutional under the Tennessee Constitution and the First, Eighth, and Fourteenth Amendments to the United States Constitution and issue a permanent injunction against use of the new lethal injection protocol against the Plaintiff;

B. Declare that Tennessee must implement a contingency plan in the case that an execution is botched, and that life-saving medical procedures be administered if death does not result within five minutes of the beginning of the execution. This should apply to any form of execution, including electrocution and lethal injection.

C. Declare that the fourteen-day isolation period is unconstitutional on its face and as applied to the Plaintiff under the Eighth Amendment and issue a permanent injunction preventing the Defendants from imposing the same;

D. Apply the equal protection of the laws and order the Defendants to enter into a similar agreement with the Plaintiff here, as they entered into with the

plaintiffs in *King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.) and *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.);

E. In the alternative, this Court should declare that the Agreement violates the Plaintiff's rights to equal protection and issue a temporary injunction preventing the Defendants from executing the Plaintiff prior to the completion of the litigation in *King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.), *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.), and this challenge; and

F. Any other relief warranted in this Court's discretion.

Respectfully submitted,

FEDERAL DEFENDER SERVICES  
OF EASTERN TENNESSEE, INC.

By: /s/ Luke P. Ihnen  
Stephen A. Ferrell (TN BPR No. 025170)  
Luke P. Ihnen (TN BPR No. 035190)  
800 S. Gay Street, Suite 2400  
Knoxville, TN 37929  
Phone: (865) 637-7979  
Fax: (865) 637-7999  
Stephen.Ferrell@fd.org  
Luke.Ihnen@fd.org

### Certificate of Service

I, Patricia McIntosh, certify that on January 8, 2026, a true and correct copy of the foregoing was served via certified mail to opposing counsel, John Skrmetti, Attorney General, Frank Strada, Kevin Nelsen, and Jordan Clark.

*Patricia McIntosh*

Patricia McIntosh, Paralegal

# **Exhibit 1**

# TDOC Completes Lethal Injection Protocol Review

Friday, December 27, 2024 | 09:10am

**NASHVILLE, Tenn.** – Following a comprehensive review, the Tennessee Department of Correction has completed its revision of the lethal injection protocol, which will utilize the single drug pentobarbital. Executions were put on hold in May 2022 when Governor Bill Lee ordered an independent review of the procedures and subsequently appointed new leadership to oversee the process. (</content/tn/governor/news/2022/5/2/gov--lee-calls-for-independent-review-following-smith-reprieve.html>)

"I am confident the lethal injection process can proceed in compliance with departmental policy and state laws," said Commissioner Frank Strada.

Commissioner Strada began developing a revised protocol immediately following his appointment in January 2023. The revised protocol was developed in consultation with the Tennessee Attorney General's Office to ensure lawful and effective procedures are followed in carrying out death sentences. The Tennessee Supreme Court is responsible for scheduling execution dates.

FILED

2026 JAN -8 PM 4: 28

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# **Exhibit 2**

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**TENNESSEE DEPARTMENT OF**  
**CORRECTION**

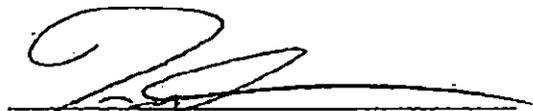
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LN D.C. & M.

**LETHAL INJECTION**  
**EXECUTION PROTOCOL**

## COMMISSIONER'S STATEMENT

The Tennessee Department of Correction ("the Department") is responsible for the incarceration of convicted felons serving sentences ranging from one year to death. Inmates sentenced to death are executed at Riverbend Maximum Security Institution ("RMSI").

As Commissioner of the Department, it is my duty to oversee the humane and constitutional execution of inmates sentenced to death in Tennessee. Tennessee law establishes lethal injection as the primary method for carrying out a death sentence and authorizes the Department to promulgate rules and regulations to facilitate executions by lethal injection. This Protocol will be reviewed as needed by me and/or my designee(s).



Commissioner

1-8-2025

Date

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## I. INTRODUCTION

This Protocol summarizes the most significant events, Department procedures, and personnel responsibilities for carrying out the Tennessee Supreme Court's orders on executions by lethal injection. It will be used to ensure the humane and constitutional execution of inmates sentenced to death in Tennessee. There will be no deviation from this Protocol except by order of the Commissioner, when deemed necessary to effectuate the purpose of this Protocol.

## II. PRIMARY RESPONSIBILITIES OF DEPARTMENT AND NON-DEPARTMENT PERSONNEL

### CENTRAL OFFICE PERSONNEL

#### COMMISSIONER

The Commissioner is responsible for overseeing the administration of humane and constitutional executions in Tennessee.

[REDACTED]

[REDACTED] is responsible for the planning and overall direction of all pre-execution, execution, and post-execution activities.

[REDACTED]

[REDACTED] is responsible for notifying the inmate and the inmate's counsel of the execution date, obtaining a completed Affidavit for Method of Execution from the inmate, and serving as custodian of the Department's records related to executions in Tennessee.

## PERSONNEL AT RMSI

### WARDEN

The Warden is responsible for carrying out the directives of the Assistant Commissioner of Prison Operations to ensure that this Protocol is followed.

### SPECIAL OPERATIONS TEAM

The Special Operations Team is responsible for preparing the lethal injection chemicals ("LIC") for administration.

### RESTRAINT TEAM

The Restraint Team is responsible for inmate management immediately before, during, and after the execution, including the use of appropriate restraint procedures.

### ESCORT TEAM

The Escort Team is responsible for coordinating the movement of all pre-approved witnesses.

[REDACTED]

[REDACTED]

## NON-DEPARTMENT PERSONNEL

### IV TEAM

The IV Team is responsible for establishing properly functioning IV lines for administration of the LIC.

### PHYSICIAN

The Physician is responsible for determining that the inmate is deceased using accepted medical standards and establishing central line IV access if necessary.

### CLERGY

Clergy, [REDACTED], may be approved in accordance with state law and Department policy to deliver chaplaincy services to the inmate and the inmate's family as requested.

### III. COMPOSITION, SELECTION, AND TRAINING OF DEPARTMENT AND NON-DEPARTMENT PERSONNEL

#### COMPOSITION AND SELECTION OF THE EXECUTION TEAM

The Execution Team includes the following individuals and teams:

1. [REDACTED]
2. RMSI Warden.
3. Special Operations Team: consists of a team leader, two members and one alternate member. The team leader and members are selected by [REDACTED] with documented approval of the Commissioner.
4. Restraint Team: consists of a team leader, five other members, and two more alternate members. The team leader, members and alternate members are selected by [REDACTED] with documented approval by the Commissioner.
5. Escort Team: consists of a team leader and at least six other team members. The team leader and members are selected by the Warden.

**SELECTION CRITERIA FOR**  
**MEMBERS OF THE EXECUTION TEAM**

Members of the Execution Team are selected based on factors that include:

1. Length of service with the Department;
2. Job performance;
3. Professionalism;
4. Review of the individual's personnel file;
5. Staff recommendations;
6. Ability to maintain confidentiality;
7. Willingness to participate;
8. Any other relevant or specialized training related to the position.

## **SELECTION OF SPECIALLY TRAINED NON-DEPARTMENT PERSONNEL**

Non-department personnel are selected for roles in the execution as follows:

1. IV Team: consists of at least two members who are either physicians, physician assistants, nurses, emergency medical technicians ("EMTs"), paramedics, military corpsman with relevant medical training, or other certified or licensed personnel including those trained in the United States Military. All team members are currently certified, licensed and/or qualified within the United States to place IV lines. IV Team members are selected by the Commissioner.
2. The Physician is selected by the Commissioner.

## **SELECTION CRITERIA FOR SPECIALLY TRAINED NON-DEPARTMENT PERSONNEL**

Specially trained, non-department personnel are selected based on factors that include:

1. Education, training, and experience;
2. Professionalism;
3. Personal and professional recommendations;
4. Ability to maintain confidentiality;
5. Willingness to participate;
6. Any other relevant or specialized training related to the position.

## **PROTOCOL REVIEW, PRACTICE SESSIONS, AND SPECIALIZED TRAINING FOR EXECUTION TEAM MEMBERS**

### **Review of the Lethal Injection Execution Protocol**

1. After selection, the Execution Team, the IV Team, and the Physician must review this Protocol. This review is documented.
2. At least annually, the Warden or designee reviews the Protocol in its entirety with the Execution Team. This review is documented.

### **Monthly Practice Sessions**

\_\_\_\_\_ ensures that monthly practice sessions are conducted. Practice sessions are attended by the Warden, the Special Operations Team, the Restraint Team, and the Escort Team. These regular practice sessions include simulations of all steps of the execution process beginning 2 hours before the execution, with the following exceptions:

1. Volunteers play the role of the inmate and the Physician.
2. No IV is inserted into the person playing the role of the inmate.
3. Saline solution is substituted for the LIC.
4. A body is not placed in a body bag.

### **Additional Pre-Execution Practice Sessions**

Additional practice sessions are held at least twice weekly starting two weeks before a scheduled execution. Attendance of all practice sessions during this period is required absent illness or other unavoidable circumstances.

### **Documentation of Practice Sessions**

All practice sessions are documented with the date and time, as well as the printed names and signatures of all participants.

### **Specialized Training for Department Personnel**

Members of the Special Operations Team receive training in vascular access/IV therapy by a qualified third party. Updated training is conducted annually.

## CHEMICALS USED IN LETHAL INJECTION

The Department uses the following LIC for executions by lethal injection:

**Pentobarbital 100 ml of a 50 mg/ml solution (a total of 5 grams)**

The Department will procure a sufficient supply of LIC to be used in lethal-injection executions. The LIC is subject to quality assurance and quality control testing. The Department will follow recommended guidelines for safe transportation and storage of LIC.

LIC will be secured [REDACTED]

[REDACTED] and RMSI Warden will conduct a semi-annual inventory of the container to verify its contents and the expiration dates of LIC. An additional inventory will be conducted 30 days before a scheduled execution. All inventories will be conducted by a minimum of two persons and documented in the log. If an inventory reveals expired LIC, appropriate disposal will occur.

## IV. PROCEDURES BEGINNING 30 DAYS BEFORE EXECUTION

### 30 Days before the Day of Execution

#### I. Central Office Personnel

A. [REDACTED]

1. Reviews documentation of training.
2. Confirms team leaders and members with documented approval by the Commissioner.
3. Sets pre-execution practice schedule.
4. Confirms that equipment inventory is completed and that any needed maintenance occurs.
5. Verifies and documents with the Warden the LIC to be used, including its quantity and expiration date.

B. Communications: Issues a news advisory about the date and time of the execution.

C. Office of Victim Services: Identifies family members of the victim(s) of the crime(s) for which the inmate was sentenced to death and advises them of the scheduled date and time of the execution.

#### II. RMSI or Debra Johnson Rehabilitation Center ("DJRC") Personnel

Warden:

1. Collects the Affidavit For Method of Execution from the inmate (if applicable) and provides copies to the Commissioner and [REDACTED] (See Appendix, p. 25).
2. Provides to the inmate the Affidavit to Select Defense Counsel Witness to Execution and Affidavit to Select Member of Clergy Preparing Inmate for Death. (See Appendix, p. 26).
3. RMSI Warden verifies and documents with the [REDACTED] the LIC to be used, including the quantity and expiration date.

4. RMSI Warden confirms that equipment inventory is completed and that any needed maintenance occurs.
5. Notifies the inmate about changes to the conditions of confinement over the next 30 days.

## **21 Days before the Execution**

### **Central Office Personnel**

#### **Communications:**

1. Receives media-witness applications, initiates background investigations on the applications, and advises the Commissioner of any issues arising from the investigations.
2. Sends witness agreement forms (Official Witness Agreement Form, Official Witness/Pool Reporter Agreement Form) to selected witnesses and establishes a deadline to return all completed forms.

## **14 Days before the Execution**

### **I. Central Office Personnel**

#### **A. [REDACTED]**

1. Directs the initiation of the Continuous Observation Logs, which record all daily activities of the inmate beginning 14 days before the execution. The logs are maintained at each post where the inmate is located until the execution occurs or a stay of execution is issued.
2. Directs the initiation of the final practice schedule.

#### **B. [REDACTED]**

**Finalizes a list of all witnesses and prepares written invitations.**

## II. RMSI or DJRC Personnel

### Warden:

1. Confirms receipt of Affidavit to Select Defense Counsel Witness to the Execution and Affidavit to Select Member of Clergy Preparing Inmate for Death.
2. Directs the transfer of the inmate to a cell for enhanced monitoring.
3. RMSI Warden finalizes arrangements with the [REDACTED] for disposition of the inmate's body.
4. RMSI Warden confirms maintenance staff are scheduled to be at RMSI at least 4 hours before the scheduled execution.

## 48 Hours before the Execution

### I. Central Office Personnel

[REDACTED]

1. Confirms adequate staffing and vehicles are in place for regular operations and the execution.
2. Ensures that each room in the Capital Punishment Unit receives final inspection specific to its functions. The Capital Punishment Unit includes, but is not limited to, the inmate's cell, contact and non-contact visitation areas, the control room, the secure monitoring area, execution chamber, and lethal injection room.
3. Oversees transfer of female inmate from DJRC to RMSI, if applicable.

### II. RMSI Personnel

#### Warden:

1. Verifies inventory and functionality of equipment in the Capital Punishment Unit.
2. Oversees the transfer of the inmate to a cell in the Capital Punishment Unit.

## 12 Hours before the Execution

### RMSI Personnel

#### Warden:

1. Ensures that access to RMSI during the 12 hours before the execution is limited to:
  - a. On-duty Department personnel;
  - b. On-duty contract workers;
  - c. Volunteers deemed necessary by the Warden;
  - d. Approved delivery vehicles;
  - e. Law enforcement personnel on business-related matters;
  - f. Approved witnesses (i.e. defense counsel, clergy, Attorney General's designee).
2. Initiates lockdown of RMSI that will continue through the duration of the execution.
3. Ensures the inmate concludes the last meal by 12:00 a.m. the night before the execution and that all eating utensils and leftover food are removed from the cell.
4. Ensures non-contact visits and phone calls—excluding visits and calls from the inmate's attorney of record—are concluded 12 hours before the scheduled execution unless expressly approved by the [REDACTED]

### Day of Execution

8:00 a.m.

#### A. Commissioner or designee:

Provides a brief overview of the execution for the official witnesses.

**B. Special Operations Team:**

1. Team Leader retrieves LIC with the Warden and/or [REDACTED]
2. Confirms that the phones in the execution chamber are operational.
3. Confirms that the camera used to monitor the IV site is operational.
4. Team Leader prepares the syringes of saline and Pentobarbital which shall be labeled as follows:

CHEMICAL CHART	
Syringe	Label
1A	50 ml Sterile Saline Solution, BLACK
2A	50ml (50mg/ml solution) Pentobarbital, GREEN
3A	50ml (50mg/ml solution) Pentobarbital, GREEN
4A	50 ml Sterile Saline Solution, BLACK

Preparation of syringes occurs in the Lethal Injection Room.

- a. One complete primary set ("Set A") of syringes is prepared and administered in carrying out the death sentence and an additional amount of LIC is available in the Lethal Injection Room for a backup set (Set "B"). Set B is only prepared if the inmate is not deceased after administration of Set A, applicable waiting period, and examination by the Physician.
  - b. The syringes are labeled, identifying the chemical contained in each syringe by (i) assigned number, (ii) chemical name, (iii) chemical amount and (iv) the designated color, as set forth in the chemical chart above. This information is preprinted on a label, with one label affixed to each syringe to ensure the label remains visible.
  - c. Once prepared, each syringe is placed into a designated tray in the order in which they are to be administered. The preparation of syringes is documented by a designated member of the Special Operations Team on the Chemical Preparation Time Sheet. (See Appendix p. 27).
5. After the Special Operations Team prepares the primary-Set A

syringes, the Special Operations Team prepares the IV lines for use by the IV Team. Each IV line consists of a sodium chloride bag, solution set, extension sets, and hemostatic clamps.

C. Escort Team:

1. Official witnesses report to the Administration Building no later than 8:30 a.m. They are greeted by the Escort Team, processed through checkpoint, and moved to the Administration Building conference room. Official witnesses are moved to the Parole Board Room in Building 8 no later than 9:45 a.m., where they remain until final movement to the official witness room.
2. Immediate family members of the victim(s) report to the Administration Building no later than 9:15 a.m. They are greeted by the Escort Team, processed through checkpoint, and moved to the conference room in Building 8 no later than 9:45 a.m., where they remain until final movement to the victim witness room.
3. The Escort Team processes, transports, and remains with the pre-approved official witnesses and victim witnesses through the conclusion of the execution and their return to designated staging areas and ensures that each witness group is always separated from the other groups.
4. [REDACTED] and the Physician are stationed in the capital punishment garage.

10:00 a.m.

1. At the command of the Warden, the Restraint Team removes the inmate from the holding cell, places him/her on the gurney, and secures him/her with restraints.
2. The Restraint Team moves the inmate to the execution chamber and secures the gurney. The Restraint Team secures the inmate's arms to arm extensions on the gurney. The Restraint Team confirms that the restraints are not so restrictive as to impede the inmate's circulation, yet sufficient to prevent the inmate from manipulating the catheter and IV lines.
3. The Warden, [REDACTED] Attorney General or designee, defense counsel witness and clergy, if requested, enter the execution chamber with the inmate.

4. Once the inmate is secured, the IV Team attaches the leads from the electrocardiograph to the inmate's chest. The IV Team confirms that the electrocardiograph is functioning properly. A backup electrocardiograph is on site and readily available, if necessary.
5. The IV Team determines the IV sites. The IV Team members insert a primary IV catheter and a backup IV catheter. The primary IV catheter is used to administer the LIC. The backup catheter is reserved in case the primary fails.
6. The Special Operations Team Leader ensures that the catheters are properly secured, properly connected to the IV lines, and out of reach of the inmate's hands. The Special Operations Team Leader opens the IV line to start a flow of sterile saline solution in each line and administers at a slow rate to keep the lines open. Any failure of an IV line shall be immediately reported to the Commissioner.
7. If necessary, the Physician will insert a central line.
8. The Escort Team secures official witnesses and victim witnesses in the appropriate witness rooms.
9. The Attorney General/designee, defense counsel witness, and any clergy member are escorted to the official witness room.
10. The camera and audio system are activated from the control room.

**10:10 a.m.**

1. The Warden and [REDACTED] open the blinds to the witness rooms.
2. The Warden contacts the Commissioner to ensure that no last-minute stay or reprieve has been granted.
3. The Warden asks the inmate if he/she wants to make a last statement.
4. The Warden gives the signal to proceed. The Special Operations Team Leader directs the assigned Special Operations Team Member to confirm the chemical name and order of syringes in the Primary Set A.

5. The Special Operations Team Leader administers all syringes in Primary Set A. In the event of a primary line failure with the first syringe of saline, the Special Operations Team Leader switches to the back-up IV line and administers the complete set of syringes.
6. After the four syringes in Primary Set A have been administered, the Special Operations Team Leader signals to the Warden at which time a 5-minute waiting period begins.
7. After the waiting period, all witness blinds are closed, the camera is disengaged, and the privacy curtains are closed. The Warden asks the Physician to enter the room to examine the inmate and determine if he/she is deceased. The Physician determines whether the inmate is deceased.
8. The Physician reports his findings to the Warden.
9. If the inmate is not deceased, a Backup Set B of syringes is prepared, the blinds are reopened, and steps 5 through 8 are repeated.
10. A designated member of the Special Operations Team will document all information contained on the Lethal Injection Chemical Administration Record (See Appendix, pp. 31-33).
11. The Warden announces that the sentence has been carried out and directs the witnesses to exit.

## POST-EXECUTION PROCEDURES

1. The Commissioner notifies the Governor or designee and [REDACTED] via telephone that the sentence has been carried out and the time that death occurred.
2. The IV Team clamps and cuts the IV lines leaving them connected to the inmate for examination by [REDACTED]
3. [REDACTED] takes appropriate investigative measures and takes custody of the deceased inmate.
4. Witnesses are escorted out of the Capital Punishment Unit. Each group of witnesses is kept separate from the other.
5. Official witnesses who are media pool reporters are returned to the media tent to participate in the media briefing.
6. Victim witnesses who wish to speak with the media are escorted to the media tent.
7. Media may remain on site in a designated location outside the secure perimeter to complete live broadcasts.
8. The Warden determines when the prison will resume normal operations after consultation with [REDACTED]
9. [REDACTED] collects the Department's records relating to the execution.
10. The Commissioner, [REDACTED] the Warden and other relevant personnel, if any, review the execution process and determine whether any changes or modifications should be made.

## STAY OF EXECUTION

1. Upon receiving notification that a court has issued a stay of execution, or the Governor has issued a reprieve, the Commissioner consults with [REDACTED] and advises the Warden.
2. Upon receiving notification, the Warden:
  - a. Advises the witnesses that a stay or reprieve has been issued.
  - b. After consultation with the Commissioner, directs the IV Team to remove the catheters, if applicable, and directs the Restraint Team to return the inmate to the holding cell.
3. The Warden informs the appropriate personnel of the stay or reprieve.
4. The Traffic Control Team Leader notifies any protestors of the stay or reprieve.
5. The Escort Team escorts witnesses from the Capital Punishment Unit.

## V. APPENDIX AND FORMS

## AFFIDAVIT FOR METHOD OF EXECUTION

Under Tennessee law, you have the right to have your execution carried out by lethal injection. You also have the option of waiving this right, and choosing electrocution as the method of your execution. The purpose of this affidavit is to allow you an opportunity to either waive your right to have your execution carried out by lethal injection or to decline to waive that right. Failure to complete this form will result in the execution being carried out by lethal injection. You will not be given another opportunity to waive your right to have your execution carried out by lethal injection. If you waive your right to have your execution carried out by lethal injection, you may rescind that waiver by contacting the Warden no later than 14 days before the date of the execution and signing a new affidavit to that effect.

---

I, \_\_\_\_\_ TDOC No. \_\_\_\_\_, make the following choice concerning the method of my execution set to be carried out on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:

\_\_\_\_\_ I waive the right to have my execution carried out by lethal injection and choose to be executed by electrocution.

\_\_\_\_\_  
Signature of Inmate

\_\_\_\_\_ I have been given the opportunity to waive my right to have my execution carried out by lethal injection and I decline to waive that right.

\_\_\_\_\_  
Signature of Inmate

I certify that I presented this Affidavit For Method of Execution to inmate \_\_\_\_\_, TDOC No. \_\_\_\_\_, and

\_\_\_\_\_ The inmate refused to sign.

\_\_\_\_\_ I witnessed the inmate sign this affidavit.

\_\_\_\_\_  
Signature of Warden/Designee

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_.

# AFFIDAVIT TO SELECT INMATE WITNESSES TO EXECUTION

Under Tennessee law, Tenn. Code Ann. § 40-23-116, you may select one (1) defense counsel, a member of the clergy, and adult members of your immediate family to witness your scheduled execution. Below, please provide the full names of your selected witnesses.

Defense Counsel \_\_\_\_\_

Clergy \_\_\_\_\_

Inmate's immediate family \_\_\_\_\_

I, \_\_\_\_\_, TDOC No. \_\_\_\_\_, select the above witnesses:

\_\_\_\_\_  
Signature of Inmate

\_\_\_\_\_  
Date

I certify that I presented this Affidavit to Select Inmate Witnesses to Execution to inmate

\_\_\_\_\_, TDOC No. \_\_\_\_\_, and

\_\_\_\_\_ The inmate refused to sign.

\_\_\_\_\_ I witnessed the inmate sign this affidavit.

\_\_\_\_\_  
Signature of Warden/Designee

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public My Commission expires \_\_\_\_\_

## CHEMICAL PREPARATION TIME SHEET

Date \_\_\_\_\_

### PRIMARY SYRINGE SET

Syringe 1A-BLACK-50 ml of Sterile Saline Solution prepared by \_\_\_\_\_

at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

Syringe 2A-GREEN-50 ml (50mg/ml solution) of Pentobarbital prepared

by \_\_\_\_\_ at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

Syringe 3A-GREEN-50 ml (50 mg/ml solution) of Pentobarbital prepared

by \_\_\_\_\_ at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

Syringe 4A-BLACK-50 ml of Sterile Saline Solution prepared by \_\_\_\_\_

at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

## CHEMICAL PREPARATION TIME SHEET

Date \_\_\_\_\_

### BACKUP SYRINGE SET

Syringe 1B-BLACK-50 ml of Sterile Saline Solution prepared by \_\_\_\_\_

at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

Syringe 2B-GREEN-50 ml (50mg/ml solution) of Pentobarbital prepared

by \_\_\_\_\_ at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

Syringe 3B-GREEN-50 ml (50 mg/ml solution) of Pentobarbital prepared

by \_\_\_\_\_ at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

Syringe 4B-BLACK-50 ml of Sterile Saline Solution prepared by \_\_\_\_\_

at \_\_\_\_\_ a.m.

Witnessed by \_\_\_\_\_

# LETHAL INJECTION CHEMICAL ADMINISTRATION RECORD

Inmate Name \_\_\_\_\_ Inmate # \_\_\_\_\_

Date \_\_\_\_\_

## PRIMARY SET A

	<b>Chemical</b>	<b>Time Begin</b>
Syringe 1-A	Saline 50 ml	_____
Syringe 2-A	Pentobarbital 50 ml	_____
Syringe 3-A	Pentobarbital 50 ml	_____
Syringe 4-A	Saline 50 ml	_____

**End Time** \_\_\_\_\_

Recorder Signature \_\_\_\_\_

# LETHAL INJECTION CHEMICAL ADMINISTRATION RECORD

Inmate Name \_\_\_\_\_ Inmate # \_\_\_\_\_

Date \_\_\_\_\_

## BACKUP SET B

	<b>Chemical</b>	<b>Time Begin</b>
Syringe 1-B	Saline 50 ml	_____
Syringe 2-B	Pentobarbital 50 ml	_____
Syringe 3-B	Pentobarbital 50 ml	_____
Syringe 4-B	Saline 50 ml	_____

**End Time** \_\_\_\_\_

Recorder Signature \_\_\_\_\_

# DAY OF EXECUTION – LETHAL INJECTION EXECUTION RECORDER CHECKLIST

Inmate Name \_\_\_\_\_ Inmate # \_\_\_\_\_

Date \_\_\_\_\_

## TIME

- \_\_\_\_\_ Report to designated area for final briefing
- \_\_\_\_\_ Restraint Team and Special Operations Team report to Execution Chamber for final briefing. Special Operations Team sets up IV system.
- \_\_\_\_\_ Physician in place
- \_\_\_\_\_ IV Team in place (EMTs)
- \_\_\_\_\_ [REDACTED] in place
- \_\_\_\_\_ Warden in place
- \_\_\_\_\_ Check blinds and curtains
- \_\_\_\_\_ Advise Escort Team to transport Official Witnesses to Parole Room
- \_\_\_\_\_ Advised by Escort Team that Official Witnesses are in Parole Room
- \_\_\_\_\_ Advise Escort Team to escort Victim's Witnesses to Viewing Room
- \_\_\_\_\_ Advised by Escort Team that Victim's Witnesses are in place
- \_\_\_\_\_ Warden or designee checks to ensure execution is to proceed
- \_\_\_\_\_ Gurney positioned in Death Watch Area
- \_\_\_\_\_ Restraint Team enters cell and secures condemned inmate to gurney
- \_\_\_\_\_ Advise Escort Team to transport Official Witnesses to Death Watch vestibule
- \_\_\_\_\_ Advised by Escort Team that Official Witnesses are in the vestibule
- \_\_\_\_\_ IV Team enters the Execution Chamber
- \_\_\_\_\_ IV Team exits the Execution Chamber
- \_\_\_\_\_ Advise Escort Team to "Transport Official Witnesses in place"

Recorder's Initials \_\_\_\_\_

**DAY OF EXECUTION - LETHAL INJECTION EXECUTION RECORDER**  
**CHECKLIST (continued)**

Inmate Name \_\_\_\_\_ Inmate # \_\_\_\_\_

Date \_\_\_\_\_

**TIME**

- \_\_\_\_\_ Advised by Escort Team that "Witnesses are in place"
- \_\_\_\_\_ Warden checks with Commissioner to proceed
- \_\_\_\_\_ Warden orders blinds opened, closed circuit TV activated, and audio activated for viewing rooms.
- \_\_\_\_\_ Warden asks inmate for any last comments
- \_\_\_\_\_ Warden orders Special Operations Team to proceed
- \_\_\_\_\_ Lethal Injection process completed
- \_\_\_\_\_ Blinds and curtains closed and closed-circuit TV deactivated
- \_\_\_\_\_ Physician enters the Execution Chamber
- \_\_\_\_\_ Physician pronounces death – exact time
- \_\_\_\_\_ Audio deactivated to witness rooms
- \_\_\_\_\_ Advise Escort Team to remove Victim's Witnesses
- \_\_\_\_\_ Advise Commissioner or designee that execution is completed
- \_\_\_\_\_ Physician and EMTs depart
- \_\_\_\_\_ \_\_\_\_\_ escorted to chamber to take possession of body. Pictures will be taken of body and Execution Chamber before removal of body
- \_\_\_\_\_ Advised by Escort Team Victim's Witnesses are at Checkpoint
- \_\_\_\_\_ Advise Escort Team to remove Official Witnesses
- \_\_\_\_\_ Advised by Escort Team that Official Witnesses are at Checkpoint
- \_\_\_\_\_ The body removed from the institution

Recorder's Initials \_\_\_\_\_

**DAY OF EXECUTION - LETHAL INJECTION EXECUTION RECORDER**  
**CHECKLIST (continued)**

**Inmate Name** \_\_\_\_\_ **Inmate #** \_\_\_\_\_

**Date** \_\_\_\_\_

**Inmate's Comments if any:**

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\_\_\_\_\_  
**Lethal Injection Recorder**

\_\_\_\_\_  
**Date**

SPECIFIC POST ORDERS – Special Operations Team (3 Members including a Team Leader and 1 Alternate)

Duty Hours – 6:00 AM – Until properly relieved.

Composition of Team

1. Team Leader
2. Recorder
3. Camera Operator
4. Alternate Member

Equipment



Primary Responsibility

You have the responsibility of overseeing and leading the preparation/administration of the lethal injection chemicals, recording the steps and times of the chemical preparation/administration process, and operating the camera in the execution chamber throughout the process.

These are not all-inclusive duties; therefore, staff are subject to other duties as assigned.

Duties:

Team Leader:

1. Upon arrival at the post, visually inspects the area to ensure it is ready to carry out the sentence.
2. Ensure the camera operator tests the equipment upon arrival to the area.
3. Retrieve lethal injection chemical with either the Warden or  and complete inventory.
4. Retrieve IV lines, syringes, saline solution, supplies, etc. needed to perform the injection and complete inventory.
5. Ensure preparation of the lethal injection chemical.
6. Begin setup for lethal injection portion of execution process.

7. Ensure the recorder documents all steps on the Chemical Preparation Time Sheet and Lethal Injection Chemical Administration Record.

Recorder

1. Document all information on the Chemical Preparation Time Sheet(s).
2. Document all information on the Lethal Injection Chemical Administration Record(s).
3. Perform other duties as assigned by the Team Leader.

Camera Operator

1. Operate the overhead camera that monitors the IV catheter during the lethal injection process.
2. Perform other duties as assigned by the Team Leader.

Alternate Member

1. Cross train with team members to learn all duties in case the need arises.

\*\*Depart the area once properly dismissed by the Warden or [REDACTED]

[REDACTED]\*\*

\*\*\*\*\*END\*\*\*\*\*

SPECIFIC POST ORDERS – Restraint Team (1 Leader/Supervisor, 5 Members, and 2 Alternates)

Duty Hours – 6:00 AM – Until relieved by a supervisor (Lieutenant or above).

Composition of Team

The team will consist of 1 Team Leader, 5 members, and two alternates.

Equipment

[REDACTED]

Primary Responsibility

You have the responsibility of safely and securely removing the inmate from the holding cell in the Capital Punishment Unit, securing the inmate to the gurney, and moving the inmate to the Execution Chamber.

Duties:

1. As a team, report to the holding cell to remove the inmate.
2. Team Leader will ask the inmate to approach the cell door and submit to restraints. If the inmate is compliant, the restraints will be applied.
3. If the inmate is non-compliant but passive, inform the inmate you will be entering the cell to apply restraints and remove him/her. The restraint team will enter the cell in the use-of-force formation and apply restraints.
  - a. Team Leader/Supervisor oversees movement and directs team members during move.
  - b. Team member 1 is responsible for pinning, if necessary, monitoring inmate, and maintaining/utilization of the cutters.
  - c. Team member 2 secures the inmates upper right appendage and applies wrist restraint.

- d. Team member 3 secures upper left appendage and applies wrist restraint.
  - e. Team member 4 secures the lower right appendage and applies leg restraint.
  - f. Team member 5 secures the lower left appendage and applies leg restraint.
4. In the event the inmate is non-compliant and exhibits threatening behavior, Team Leader will treat the situation as a potential use of force and begin de-escalation efforts to try and gain voluntary compliance. Should these efforts fail, the team will use force to remove the inmate from the cell.
  5. Upon application of hand restraints, the team will remove the inmate from the cell, search the inmate, and secure the inmate on the gurney.
  6. The team will transport the inmate on the gurney to the Execution Chamber. Once the gurney is in place, secure the inmate's arms to the arm extensions on the gurney.
  7. The team will perform other duties as assigned.

\*\*\*\*\*END\*\*\*\*\*

## SPECIFIC POST ORDERS – Escort Team (At least 6 Members and 1 Leader/Supervisor)

Duty Hours – 6:00 AM – Until relieved by a supervisor (Lieutenant or above).

### Composition of Team

The team will consist of at least 6 members and 1 Team Leader.

### Equipment

### Primary Responsibility

Escorts are responsible for escorting official witnesses and immediate family members of the victim(s) to designated areas.

### Duties:

1. The Escort Team reports to the Administration Building conference room no later than 8:00 AM to receive instructions.
2. The escorts will receive and greet official witnesses at 8:30 AM in the Administration Building. After the official witnesses are processed through checkpoint, they are moved to the Administration Building conference room. They are then escorted to the Parole Board Room in Building 8 no later than 9:45 AM. The official witnesses will remain in the Parole Board Room until final movement to the witness room.
3. The escorts will receive and greet the immediate family members of the victim at 9:15 AM in the Administration Building. After they are processed through checkpoint, the victim witnesses are moved the conference room in Building 8 no later than 9:45 AM. The victim witnesses will remain in the conference room until final movement to the victim witness room.
4. The Escort Team processes, transports, and remains with the pre-approved official witnesses and victim witnesses through the conclusion of the execution and the witnesses' return to the designated staging areas. The Escort Team ensures that each witness group always remains separated from the other groups.

5. Upon pronouncement of the inmate's death, the Escort Team will escort immediate family members of the victim(s) out of the Capital Punishment Unit to the Administration Building for departure.
6. Once confirmation is received that immediate family members of the victim have departed, the Escort Team will escort official witnesses from the Capital Punishment Unit to the Administration Building for departure.
7. Escorts may perform other duties as assigned by a supervisor.

\*\*\*\*\*END\*\*\*\*\*

## SPECIFIC POST ORDERS – Building 8 Control Room Officer

Duty Hours – 6:00 AM – 6:00 PM (Shift 2) (10A – 6P on day of move)  
6:00 PM – 6:00 AM (Shift 1)

Report to Building 8 at approximately 10:00 AM (48 hours before scheduled execution) wearing the prescribed uniform and assume the duties in the Control Room in preparation for the inmate's arrival to a holding cell. If applicable, make your relief, as the equipment is issued on a 24-hour basis, you are required to indicate the key ring number and type of equipment accounted for in your post logbook. Count the keys to ensure the number of keys corresponds with the total number on the key ring chit. Key rings must be secured to a belt by a clip and a metal chain. Contact the Control Center and test your radio/body alarm.

### Documentation

Logbook entries must be legible, documenting routine and unusual activity. An example of a log entry is:

6:00 AM Relieved Officer Williams and assumed duties as the Unit 2 Officer. Key Rings F-1, X-22, Radio, (1) set of handcuffs, (1) set of leg irons, (1) handheld metal detector, and (1) flashlight accounted for.  
12:01 PM Count announced, Officer Smith backing count.  
12:47 PM Clear count with 32 inmates.

### Primary Responsibility

This post commences at approximately 10:00 AM, 48 hours before the scheduled execution. You have the responsibility of controlling all electronic access points to the Capital Punishment Unit and recording all activity. In addition, you are responsible for completion of the Lethal Injection Recorder Checklist, including when the time-specific events occur. Other non-routine activity should be noted in the post's logbook.

These are not all-inclusive duties. You are subject to other duties as assigned.

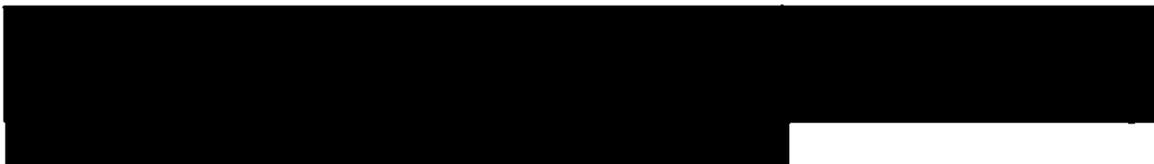
### Security Measures

**Building access** - only authorized staff will be given access to areas within the Capital Punishment Unit. Questions regarding persons other than those with a role or previously identified in the protocols must be approved by the Warden prior to granting access. The request/approval is to be documented in the logbook.

**Official count times** - Official counts are conducted [REDACTED]

Duties:

1. Always remain alert and continuously monitor the unit's activity.
2. Complete the Lethal Injection Recorder Checklist form and note the times any identified activity occurs.
3. Announce official count times to the unit's observation officer.
4. Document the identity of all individuals who access the Capital Punishment Unit, including all staff and inmate visitors.
5. Conduct security inspection of the control room and document discrepancies in the log and submit work request for repairs.
6. Conduct key and equipment accountability during shift.



\*\*\*\*\*END\*\*\*\*\*

## SPECIFIC POST ORDERS - Unit 2 Housing Observation Officer

Duty Hours – 6:00 AM – 6:00 PM (Shift 2)  
6:00 PM – 6:00 AM (Shift 1)

Report to Unit 2 wearing the prescribed uniform and relieve the outgoing officer. After you make your relief, as the equipment is issued on a 24-hour basis, you are required to indicate the key ring number and type of equipment accounted for in your post logbook. Count the keys to ensure the number of keys corresponds with the total number on the key ring chit. Key rings must be secured to a belt by a clip and a metal chain. Contact the Control Center and test your radio/body alarm.

### Equipment



### Primary Responsibility

This post commences 14 calendar days before a scheduled execution. You have the responsibility of continuous direct supervision of the inmate while he/she is housed in the designated general population housing-unit cell in preparation for his/her sentence being carried out. You will be positioned directly outside the inmate's cell with a line of sight inside the cell.

These are not all-inclusive duties. You are subject to other duties as assigned.

### Documentation

Logbook entries must be legible and intelligible, documenting routine and unusual activity. An example of a log entry is:

6:00 AM Relieved Officer Williams and assumed duties as the Unit 2 Officer. Key Rings F-1, X-22, Radio, (1) set of handcuffs, (1) set of leg irons, (1) handheld metal detector, and (1) flashlight accounted for.

12:01 PM Count announced, Officer Smith backing count.

12:47 PM Clear count with 32 inmates.

### Security Measures / Conditions of Confinement

**Restraints** – The inmate will be restrained from the rear when going to the recreation area or other unit based out of cell activity. Full restraints will be used when inmate is moved outside of the unit.

**Meals** – The inmate will be provided meals consistent with the unit feeding schedule. All utensils and feeding materials will be retrieved following each meal.

**Telephone use** – The inmate will be permitted routine use of the telephone. All requests and initiated/completed calls will be documented in the logbook.

**Visits** – All inmate requested visits must be made in writing and approved by the Warden.

**Personal property** – Personal property may be transferred into the cell by/with the inmate upon prior approval from the Warden after consultation with Assistant Commissioner, Prison Operations. All items will be searched prior to allowance into the cell. He/she will be permitted to purchase commissary from the unit's approved list, maintain in the cell legal and religious materials, pencil, paper, and books. Use of hygiene items (soap and toothpaste) toothbrush, and a comb are permissible.

Females may have feminine hygiene items as needed.

All personal property will be visually inspected and electronically screened via x-ray each time items are removed are permitted inside the cell.

**Recreation** – The inmate will be permitted out of cell, outdoor recreation in one-hour increments on five separate days for a total of five per week. Recreation will be scheduled when the inmate is the sole person in the outdoor recreation area.

**Clothing exchange** – All clothing issued will be visually and electronically screened for contraband.

**Bedding /Mattress**– Upon initial placement, issue a new mattress, all new bedding, and towels. Authorized items include two sheets, one blanket, one pillow, one pillowcase, two wash clothes and one towel.

**Showers** – Upon request, razors will be issued and retrieved upon use each time.

**Cell sanitation** – Upon request by the inmate, sanitation supplies (broom and cleaner) may be issued only when a supervisor is present in the unit. The items must be collected immediately upon completed use.

**Official count times** – Official counts are conducted [REDACTED]

**Clinical rounds** – Ensure that Clinical Services staff visits the unit daily. The staff member will be required to initial the CR-2578 form and the officer make an entry documenting their presence in the post logbook.

Duties:

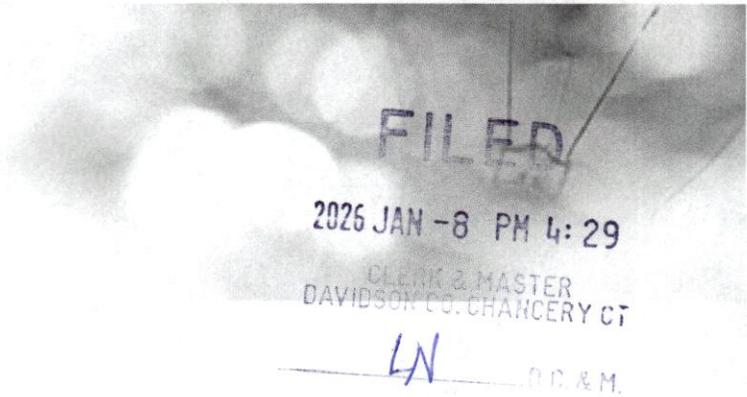
1. Always remain alert and continuously monitor inmate.
2. Ensure inmate is issued one set of clean clothing initially prior to entering cell and exchange clothing prior to re-entering the cell after each exit (shower, recreation, visitation, etc.).
3. Search inmate after each cell exit and prior to re-entering. All searches will include the use of a handheld metal detector.
4. Conduct official counts with a second staff member, sign slip, and submit to the Control Center. Staff must be certain they are observing living, breathing flesh in making an accurate count.
5. Document inmate's actions that are not indicated on the Segregation Unit Record (reading, writing, listening to music, watching tv, etc.) in the post logbook.
6. Document in the post logbook, each request made by the inmate and actions taken.
7. Document the beginning and ending times of meals, visits, and telephone calls.
8. Request a security supervisor or higher prior to removing the inmate from a secured area for supervision oversight and guidance.
9. Conduct a proper search of all items and will document the search in the logbook. Legal mail will be scanned for contraband and opened in the presence of the inmate.



\*\*\*\*\*END\*\*\*\*\*

# **Exhibit 3**

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# TENNESSEE LETHAL INJECTION PROTOCOL INVESTIGATION

## REPORT AND FINDINGS

*Confidential Attorney-Client Communication  
And Attorney Work Product*

*DECEMBER 13, 2022*

Butler Snow LLP

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# INVESTIGATIVE REPORT

*Confidential Attorney-Client Communication*

*And Attorney Work Product*

**To:** Governor Bill Lee

**From:** Butler Snow LLP

**Date:** December 13, 2022

**Subject:** Tennessee Lethal Injection Protocol Investigation – Report  
and Findings

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## Preamble

On or about May 2, 2022, Governor Bill Lee (“Governor Lee”) announced plans to conduct a third-party review into the circumstances that led him to issue a reprieve in connection with the April 21, 2022, scheduled execution of Oscar Franklin Smith (“Mr. Smith”). Subsequently, Butler Snow LLP (“Butler Snow”), led by Edward L. Stanton III, was retained to conduct an independent investigation.<sup>1</sup> Specifically, Governor Lee asked Butler Snow to conduct an independent review of the following:

- Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution;
- Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update; and
- TDOC staffing considerations.<sup>2</sup>

This report contains an analysis of Butler Snow’s review into the foregoing areas outlined by Governor Lee. While some interviewees expressed opinions regarding the propriety of the death penalty or necessity of endotoxin testing in future protocols, Butler Snow was not asked to examine these issues and did not do so.

Throughout Butler Snow’s investigation, the State of Tennessee has demonstrated an unwavering commitment to transparency and accuracy. The Tennessee Department of Correction (“TDOC”) and the Office of the Tennessee Attorney General (the “Tennessee Attorney General’s Office”) consistently provided the investigative team with the information/documents they sought and gave them prompt access to all relevant employees requested to be interviewed in connection with the instant investigation.

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<sup>1</sup> In addition to Edward L. Stanton III, the investigative team included S. Keenan Carter, Jennifer Svilar, and Alexa Ortiz Hadley.

<sup>2</sup> See **Exhibit 1**, Governor Lee’s May 2, 2022 Press Release.

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- 47 Text Messages between Drug Procurer and Pharmacy Owner, dated July 25-26, 2018
- 48 Text Messages between Drug Procurer and Pharmacy Owner
- 49 Text Messages between Drug Procurer and Pharmacy Owner, dated August 7, 2018
- 50 Zagorski Notification Letter, dated September 27, 2018
- 51 Zagorski Prescription, dated September 21, 2018
- 52 Testing Reports, dated September 24 and October 8, 2018

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- 53 Text Messages between Drug Procurer and Pharmacy Owner, dated September 25, 2018
- 54 Testing Reports, dated September 24 and October 8, 2018
- 55 Email from Pharmacy Owner to Drug Procurer, dated October 10, 2018
- 56 Letter from D. Inglis to K. Henry re: *State of Tennessee v. Zagorski*
- 57 Zagorski Reprieve, dated October 11, 2018
- 58 Second Zagorski Prescription
- 59 Testing Report, dated November 7, 2018
- 60 Miller Notification Letter, dated November 21, 2018
- 61 Miller Prescription, dated November 16, 2018
- 62 Testing Reports, dated December 4, 5, 2018
- 63 Miller Notification Letter, dated November 23, 2018
- 64 Testing Reports
- 65 Johnson Notification Letter, dated April 16, 2019
- 66 Johnson Prescription, dated April 17, 2019
- 67 Testing Reports, dated April 26 and May 9, 2019
- 68 Email from Pharmacy Owner to Drug Procurer, dated April 29, 2019
- 69 Text Messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019
- 70 Text Messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019
- 71 Text Messages between Pharmacy Owner and Drug Procurer, dated May 9, 2019
- 72 Email from Pharmacy Owner to Drug Procurer, dated May 9, 2019
- 73 Email from K. Henry to D. Inglis, dated May 20, 2019
- 74 West Notification Letter
- 75 Text Messages between Drug Procurer and Pharmacy Owner, dated June 17, 21 and 24, 2019
- 76 Emails between Drug Procurer and Pharmacy Owner, dated June 26, 2019
- 77 Emails between Drug Procurer, Pharmacy Owner and Pharmacist, dated June 26 and July 2, 2019
- 78 West Prescription, dated July 12, 2019

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- 79 Testing Reports, dated July 17, 30, 2019
- 80 Email from Pharmacy Owner to Drug Procurer, dated July 24, 2019
- 81 Text Messages between Pharmacy Owner and Drug Procurer, dated July 29-31, 2019
- 82 Email from Pharmacy Owner to Drug Procurer, dated July 31, 2019
- 83 Text Messages between Pharmacy and Drug Procurer, dated August 1, 2019
- 84 Testing Reports, dated August 7, 12, 2019
- 85 Testing Reports, dated July 31, 2019
- 86 Text Messages between Drug Procurer and Pharmacy Owner, dated August 8, 2019
- 87 Text Messages between Drug Procurer and Pharmacy Owner
- 88 Text Messages between Drug Procurer and Pharmacy Owner, dated August 8, 2019
- 89 Emails between Drug Procurer and Pharmacy Owner, dated August 8, 2019
- 90 Email from Pharmacy Owner to Drug Procurer, dated August 9, 2019
- 91 Text Messages between Drug Procurer and Pharmacy Owner, dated August 8-12, 2019
- 92 Emails from Pharmacy Owner to Drug Procurer, dated August 12, 2019
- 93 Hall Notification Letter, dated November 5, 2019
- 94 Hall Prescription, dated November 1, 2019
- 95 Testing Reports, dated November 18, 2019
- 96 Email from Pharmacy Owner to Drug Procurer, dated November 20, 2019
- 97 Testing Reports, dated November 22, 2019
- 98 Text Messages between Drug Procurer and Pharmacy Owner, dated November 25, 2019
- 99 Email from Pharmacy Owner to Drug Procurer, dated November 26, 2019
- 100 Text Messages between Drug Procurer and Pharmacy Owner, dated November 25 and December 2, 2019
- 101 Testing Reports, dated December 5, 16, 2019
- 102 Text messages between Drug Procurer and Pharmacy Owner, dated December 3, 2019
- 103 Testing Reports, dated November 22, December 5, 16, 2019
- 104 Email from Pharmacy Owner to Drug Procurer, dated December 5, 2019

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- 105 Testing Reports, dated December 5, 16, 2019
- 106 Sutton Prescription, dated December 19, 2019
- 107 Text Messages between Drug Procurer and Pharmacy Owner, dated December 25, 2019 and Jan. 2, 2020
- 108 Testing Reports, dated January 17, 27, 28, 2020
- 109 Testing Reports, dated January 17, 28, 2020
- 110 Sutton Affidavit Concerning Method of Execution
- 111 Testing Reports, dated January 17, 27, 28, 2020
- 112 Deposition Transcripts of Warden Tony Mays

## ADDITIONAL DOCUMENTS PROVIDED/REVIEWED

See Appendix.

WITNESS INTERVIEW LIST

**Tennessee Attorney General's Office**

- 1 Herbert Slatery — Former Attorney General
- 2 Andrée Blumstein — Solicitor General
- 3 Rob Mitchell — Senior Assistant Attorney General
- 4 Scott Sutherland — Deputy Attorney General
- 5 Dianna Shew — Chief Deputy Attorney General

**Tennessee Department of Corrections**

- 6 Lisa Helton — Interim Commissioner
- 7 Debbie Inglis — Deputy Commissioner/General Counsel
- 8 Tony Mays — Riverbend Maximum Security Institution Warden
- 9 Kelly Young — Inspector General
- 10 Executioner
- 11 Drug Procurer
- 12 Richard Muckle — Special Assistant to the Commissioner
- 13 Tony Parker — Former Commissioner

**Pharmacy**

- 14 Former Pharmacy Owner
- 15 Pharmacist
- 16 Current Pharmacy Owner

**Reprive Organization**

- 17 Maya Foa — Joint Executive Director
- 18 Blaire Andres — Head of death penalty projects (United States)

**Federal Community Defender Office for the Eastern District of Pennsylvania**

- 19 Alex Kursman — Assistant Federal Defender (Capital Habeas Corpus Unit)
- 20 Hayden Nelson-Major — Research/Writing Attorney (Capital Habeas Corpus Unit)

**Federal Public Defender for the Middle District of Tennessee**

- 21 Kelley Henry — Supervisory Assistant Federal Public Defender
- 22 Ben Leonard — Investigator

**Bass, Berry & Sims PLC**

- 23 David Esquivel
- 24 Jeremy Gunn
- 25 Sarah Miller

**Brooklyn Law School**

- 26 Alexis J. Hoag-Fordjour — Assistant Professor & Co-Director of the Center for Criminal Justice

## EXECUTIVE SUMMARY

As independent investigators, Butler Snow conducted an impartial and comprehensive review of all relevant evidence concerning the three areas referenced in Governor Lee's May 2, 2022, press release. This report addresses all relevant policies/protocols, describes related investigative findings, and recommends specific steps to remedy and/or mitigate the likelihood of any issues recurring in the future. The investigative findings are premised on the following: witness interviews; in-depth historical research; an extensive and thorough review of thousands of pages of relevant documents; and an analysis of lethal injection chemical testing data.

Based on the evidence obtained in the investigation, Butler Snow made the following findings:

**A. Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution**

- There is no evidence that any failure to test the lethal injection chemicals for endotoxins in connection with Mr. Smith's scheduled execution on April 21 was intentional.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, it ever provided the pharmacy tasked with testing Tennessee's lethal injection chemicals with a copy of Tennessee's lethal injection protocol.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, any employee ever informed the pharmacy tasked with testing Tennessee's lethal injection chemicals that it should conduct an endotoxin test on all lethal injection chemicals – until the eve of Mr. Smith's scheduled execution on April 21.
- The evidence shows that the pharmacy tasked with testing Tennessee's lethal injection chemicals only tested these chemicals for *potency and sterility*, because the pharmacy followed the United States Pharmacopeia testing guidelines, not Tennessee's lethal injection protocol (which was never provided).

**B. Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update**

- The evidence shows that the lethal injection chemicals used in the August 9, 2018, execution of Mr. Billy Ray Irick ("Mr. Irick") were not tested for endotoxins. The evidence

further shows that the Midazolam used during Mr. Irick's execution was not tested for potency.

- The evidence shows that, although Edmund Zagorski ("Mr. Zagorski") was executed via electrocution on November 1, 2018, the lethal injection chemicals prepared in the event Mr. Zagorski changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins and failed the potency testing.
- The evidence shows that, although David Earl Miller ("Mr. Miller") was executed via electrocution on December 6, 2018, the lethal injection chemicals prepared in the event Mr. Miller changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that the lethal injection chemicals used in the May 16, 2019, execution of Mr. Donnie Edward Johnson ("Mr. Johnson") were not tested for endotoxins.
- The evidence shows that, although Stephen West ("Mr. West") was executed via electrocution on August 15, 2019, the lethal injection chemicals prepared in the event Mr. West changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Lee Hall ("Mr. Hall") was executed via electrocution on December 5, 2019, the lethal injection chemicals prepared in the event Mr. Hall changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Nicholas Sutton ("Mr. Sutton") was executed via electrocution on February 20, 2020, the lethal injection chemicals prepared in the event Mr. Sutton changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.

## **C. TDOC staffing considerations**

- The evidence shows that TDOC leadership placed an inordinate amount of responsibility on the Drug Procurer without providing much, if any, professional guidance; resources; or assistance. Instead, TDOC leadership viewed the lethal injection process through a tunnel-vision, result-oriented lens rather than provide TDOC with the necessary guidance and counsel needed to ensure that Tennessee's lethal injection protocol was thorough, consistent, and followed.

## **I. METHODOLOGY AND SCOPE OF INDEPENDENT INVESTIGATION**

Butler Snow's review of the issues referenced in Governor Lee's May 2, 2022, press release involved the following steps:

- (1) Coordinating with the Tennessee Attorney General's Office to obtain relevant documents and interviewing various attorneys with pertinent information.
- (2) Coordinating with TDOC to obtain relevant documents and interviewing various members of the department with pertinent information.
- (3) Coordinating with the Pharmacy used to supply Tennessee's lethal injection chemicals to obtain relevant documents and interviewing Pharmacy personnel with relevant knowledge.
- (4) Collecting, organizing, reviewing, and analyzing relevant documents and data obtained from the Tennessee Attorney General's Office, TDOC, and the Pharmacy.
- (5) Conducting in excess of 25 interviews including, but not limited to, members of the Tennessee Attorney General's Office, TDOC, and the Pharmacy.

This report is organized in the following sections:

- Section II provides background history and information relating to the events that triggered the instant investigation, the adoption of Tennessee's lethal injection protocol, and TDOC's execution training.
- Section III provides an analysis of the three investigative areas: (1) circumstances surrounding the scheduled execution of Mr. Smith, (2) clarity of and adherence to the lethal injection protocol's testing policy since it was finalized in July 2018, and (3) TDOC staffing considerations.
- Section IV provides a summary of investigative findings and recommendations to address/correct the Tennessee lethal injection protocol shortcomings discussed herein.

## **II. RELEVANT FACTS AND BACKGROUND**

This Section provides an overview of the facts surrounding Governor Lee's granting of a temporary reprieve to Mr. Smith.<sup>3</sup> Additionally, this Section provides information on Tennessee's efforts to revise its Lethal Injection Protocols (hereinafter, the "Protocol") and to conduct

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<sup>3</sup> At age 40, Mr. Smith was convicted of murder in the October 1, 1989, killings of his estranged wife, Judy Robird Smith and her minor sons, Chad Burnett and Jason Burnett.

execution training at TDOC. This Section is intended for background purposes, and additional facts and analysis will follow in the subsequent portions of this Report.

## **A. Events Triggering Independent Investigation**

On April 21, 2022, Mr. Smith was scheduled to be executed by lethal injection. The day before the execution, Mr. Smith's attorneys contacted TDOC's Deputy Commissioner of Administration and General Counsel, Debbie Inglis ("Ms. Inglis" or "Deputy Commissioner/General Counsel"), to confirm whether the lethal injection chemicals ("LIC") that would be used during Mr. Smith's execution had been properly tested in accordance with TDOC's LIC Protocol. TDOC determined that the LIC had not been tested for endotoxins<sup>4</sup> as required by Tennessee's Lethal Injection Protocol (as revised, July 2018) ("July 2018 Protocol" or "current Protocol"). As a result, Governor Lee issued a temporary reprieve to Mr. Smith on April 21, and on May 2, Governor Lee called for an independent investigation, to be led by Edward L. Stanton, III of Butler Snow. Governor Lee outlined three areas of review:

1. Circumstances that led to testing the LIC for only potency and sterility but not endotoxins preparing for the April 21 execution;
2. Clarity of the lethal injection process manual (the Protocol) that was last updated in 2018, and adherence to testing policies since the update; and
3. TDOC staffing considerations.

## **B. Adoption of Tennessee's Lethal Injection Protocol**

Over the years, the Protocol has been revised multiple times. These revisions include, but are not limited to, title changes, drug changes, format changes, testing requirements, and the addition of consciousness checks. This Section covers the changes pertaining to the LIC used for executions.

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<sup>4</sup> Bacterial endotoxin testing measures the presence and quantity of endotoxins in a particular sample. The "endo" in endotoxins refers to something that is within. The "toxin" component relates to something poisonous. Endotoxins come from the cell walls of gram-negative bacteria.

## 1. One-Drug Protocol and the Search for Pentobarbital

The Drug Procurer is responsible for obtaining the LIC that will be used in an execution by lethal injection.<sup>5</sup> This position is not defined in any iteration of the Protocol, nor are the responsibilities of the role discussed in the Protocol. Based on instructions from former TDOC Commissioner Tony Parker (“Commissioner Parker”),<sup>6</sup> TDOC’s Deputy Commissioner/General Counsel selected the current Drug Procurer in the summer of 2016. The same individual has served as Drug Procurer for all LIC executions following the enactment of the current Protocol in July 2018. The current Drug Procurer described it as an “off the books” role, as procuring LIC is not their<sup>7</sup> sole responsibility with TDOC.<sup>8</sup>

Prior to the Drug Procurer assuming this role, TDOC carried out executions through a one-drug Protocol using a lethal dose of Pentobarbital. In creating this Protocol, TDOC consulted experts who recommended the one-drug Protocol. Accordingly, the Drug Procurer was specifically instructed, by Commissioner Parker, to locate a new source for Pentobarbital, because the compounding pharmacist TDOC previously used could no longer obtain it.

Because TDOC did not have any policies in place for procuring LIC,<sup>9</sup> the Drug Procurer began conducting Google searches and making cold calls to active pharmaceutical ingredient (“API”) suppliers located in the United States. They were provided with no direction, just the directive to find a Pentobarbital source. In making calls, the Drug Procurer struggled to find a source to supply Pentobarbital, as pharmacies/manufacturers did not have the chemical; did not

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<sup>5</sup> Although the Drug Procurer is an essential role, its position and corresponding duties are noticeably absent from the current Protocol.

<sup>6</sup> Commissioner Parker retired from his position as TDOC Commissioner effective on or about November 30, 2021.

<sup>7</sup> With limited exceptions, this Report uses the pronoun “they” for all individuals referred to herein to preserve anonymity.

<sup>8</sup> Drug Procurement is neither the job title nor primary role of any TDOC employee.

<sup>9</sup> Another individual served in this role prior to the current appointee, but that individual is no longer employed with TDOC. The two did not exchange information about the responsibilities of the role.

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have the quantity requested by TDOC;<sup>10</sup> or did not want to be associated with lethal injection executions.<sup>11</sup> TDOC determined that other states were also facing difficulty when trying to locate a source for Pentobarbital. The Drug Procurer contacted at least one state to get information regarding locating a source for Pentobarbital, but that state did not provide any beneficial information.

In late 2016 to early 2017, the Drug Procurer cold-called a compounding pharmacy that was willing to help look for Pentobarbital and agreed to compound the drug if found. This is the same compounding pharmacy that currently supplies TDOC with compounded LIC based on the Pharmacy Services Agreement entered into with TDOC in 2017 (hereinafter, the “Pharmacy”).<sup>12</sup> The Drug Procurer’s primary point of contact was the Pharmacy’s owner.<sup>13</sup> Before getting involved with TDOC, the Pharmacy’s owners and Pharmacist met to ensure that all individuals were willing to provide LIC (once found) to TDOC for use in executions. None of the individuals voiced any concern or indicated that the Pharmacy should not work with TDOC. As a result, the Pharmacy and Pharmacist undertook efforts to become licensed in Tennessee.

Efforts to find Pentobarbital continued even while the Pharmacy was awaiting licensure in Tennessee. The Pharmacy Owner reached out to various suppliers,<sup>14</sup> but Pentobarbital was either only available in a small quantity, for limited purchasing only, or not available. The Pharmacy Owner found a potential source, but that source would have required the Pharmacy to sign an acknowledgment indicating the chemical would not be used for executions. As a result, the

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<sup>10</sup> Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 2** at 2-3; Emails between Drug Procurer and potential suppliers, dated Apr. 4, 6, 2017 and June 20, 2018, attached hereto as **Exhibit 3**.

<sup>11</sup> See, e.g., Letter from Alvogen, Inc., dated Apr. 20, 2018, attached hereto as **Exhibit 4**; Letter from Hikma Pharmaceuticals USA Inc., dated Feb. 26, 2020, attached hereto as **Exhibit 5**; Letters from Sandoz, Inc., dated Aug. 15, 2019 and Aug. 2, 2018, attached hereto as **Exhibit 6**.

<sup>12</sup> Pharmacy Services Agreement, attached hereto as **Exhibit 21**.

<sup>13</sup> The Pharmacy Owner left the Pharmacy in early 2020, and from that point forward, the Drug Procurer communicated with the Pharmacist directly.

<sup>14</sup> Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 2** at 3 (listing the following suppliers: Cardinal Health, McKesson, Medisca, PCCA, ANDA, Amerisource Bergen, Sigma Aldrich).

Pharmacy could not use the source. The Pharmacy Owner and Drug Procurer also considered the possibility of obtaining Pentobarbital from a veterinarian because “[t]hey sometimes have better access to it since it’s widely used for euthanasia in animals.”<sup>15</sup> That effort never came to fruition.

It became clear to TDOC that it was extremely difficult finding a U.S.-based source that would provide Pentobarbital in the amount needed for use in lethal injection executions. The Drug Procurer and Pharmacy Owner also investigated whether the drug could be obtained from an international source and imported.<sup>16</sup> It was ultimately determined that the United States Drug Enforcement Administration (“DEA”) would not allow Pentobarbital to be imported because it is a schedule II drug that was considered “readily available” in the United States.<sup>17</sup>

Even if considered “readily available” by the DEA, TDOC was unable to obtain Pentobarbital. Because Pentobarbital was unavailable, TDOC made the decision to adopt a three-drug Protocol. The Drug Procurer’s efforts to locate Pentobarbital continued into at least 2020,<sup>18</sup> even after TDOC adopted its new three-drug Protocol and removed the Pentobarbital Protocol (identified as Protocol A) from TDOC’s current Protocol. Even today, TDOC officials prefer a one-drug protocol to the three-drug protocol.<sup>19</sup> With a one-drug protocol, TDOC representatives told investigators there is a lower risk of mistake in carrying out an execution. Further, according to at least one TDOC official, the potential for mistakes also increases when more compounded LIC are used.

## 2. First Iteration of Three-Drug Protocol (January 2018)

Having been unable to obtain Pentobarbital for its then one-drug Protocol, in the Fall of 2017, TDOC began inquiring about developing a new three-drug Protocol. Commissioner Parker

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<sup>15</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Apr. 6, 2017, attached hereto as **Exhibit 2** at 1.

<sup>16</sup> Emails between Drug Procurer and Pharmacy Owner, dated May 15, 2019, attached hereto as **Exhibit 7**; Emails between Drug Procurer and Pharmacy Owner, dated July 20, 2017, attached hereto as **Exhibit 8**.

<sup>17</sup> Emails between Drug Procurer and Pharmacy Owner, dated Oct. 30, 2019, attached hereto as **Exhibit 9**.

<sup>18</sup> Handwritten Notes of Drug Procurer, dated Feb. 25, 2020, attached hereto as **Exhibit 10**.

<sup>19</sup> Dep. Tr. of Debbie Inglis at 37-39, attached hereto as **Exhibit 11**.

did some research on his own but relied on his Deputy Commissioner/General Counsel, the Drug Procurer, and the Tennessee Attorney General's Office to establish the new, three-drug Protocol. Commissioner Parker reviewed the written Protocol but did not have any involvement in drafting it, including the portions that address testing of LIC, which he assumed were drafted in consultation with the Pharmacist.<sup>20</sup>

In early September of 2017, the Drug Procurer informed the Pharmacy Owner that TDOC wanted "to try to find Midazolam and then go from there" if Midazolam was unavailable.<sup>21</sup> The Pharmacy Owner responded that both Midazolam and Potassium Chloride were "readily available" and that they had "reviewed several protocols from states" with three-drug protocols that use those drugs along with a paralytic.<sup>22</sup> The Pharmacy Owner voiced "concern with Midazolam," stating that "[b]eing a benzodiazepine, it does not elicit strong analgesic effects," meaning "[t]he subjects may be able to feel pain from the administration of the second and third drugs." The Drug Procurer agreed to "pass this info on to the higher ups."<sup>23</sup>

Nevertheless, TDOC chose to proceed with a three-drug Protocol that included Midazolam, Vecuronium Bromide, and Potassium Chloride. The Drug Procurer notified the Pharmacy Owner of this decision on September 21, 2017 and asked various questions about the dosage for each, available quantity, cost, shelf life and storage conditions.<sup>24</sup> In response, the Pharmacy Owner explained that the Vecuronium Bromide was available in a powder which would require reconstituting, noted the "typical dosing" for Potassium Chloride, and advised on the quantity required for both.<sup>25</sup> The Pharmacy Owner further explained that "there would be no need to

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<sup>20</sup> Commissioner Parker never spoke to the Pharmacist, as he was advised against such contact by TDOC's attorneys.

<sup>21</sup> Emails between Drug Procurer and Pharmacy Owner, dated Sept. 7, 2017, attached hereto as **Exhibit 12**. (RE: Update)

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Emails between Drug Procurer and Pharmacy Owner, dated Sept. 21, 2017, attached hereto as **Exhibit 13**.

<sup>25</sup> *Id.*

compound” at that point and that the commercially available drugs could be maintained at room temperature and would have a shelf life of one to two years.<sup>26</sup> The Drug Procurer communicated this information back to their TDOC superiors.

The Pharmacy began obtaining commercially-manufactured LIC in October 2017. According to the Pharmacy Owner, by October 18, 2017, the Pharmacy had received Midazolam that would expire in June 2018, Vecuronium Bromide that would expire in December 2018, and Potassium Chloride that would expire in May 2018.<sup>27</sup> On October 26, 2017, the Drug Procurer again asked the Pharmacy Owner for information on how the LIC needed to be stored as well as how to prepare them for injection.<sup>28</sup> The Pharmacy Owner replied that the LIC should be “stored in a secured location at room temperature (between 15 and 30 degrees [Celsius]),” and that they would instruct the Pharmacist to draft a protocol on how to prepare them.<sup>29</sup> The Pharmacy Owner also attached a proposed Pharmacy Services Agreement, which contained terms related to the Pharmacy’s provision of prescription medication and compounded preparations. The Pharmacy Owner and Drug Procurer discussed and made various changes to the terms of this Agreement, but the Pharmacy requirements related to compounding (including compliance with pharmaceutical standards, the United States Pharmacopoeia guidelines and accreditation departments) remained the same.

Around that same time, the Drug Procurer and Pharmacy Owner exchanged a draft of certain pages of the Protocol in development. In particular, the Drug Procurer provided the Pharmacy Owner with copies of six pages of the Protocol, including full sections entitled “Chemicals Used in Lethal Injection” and “Protocol B: Lethal Injection Chemical Set-Up and Preparation,” as well as one page of the section ultimately entitled “Chemical Administration and IV Monitoring.”<sup>30</sup> The Pharmacy Owner made one revision to these pages, changing the size of

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<sup>26</sup> *Id.*

<sup>27</sup> Emails between Drug Procurer and Pharmacy Owner, dated Oct. 18, 2017, attached hereto as **Exhibit 14**.

<sup>28</sup> Emails between Drug Procurer and Pharmacy Owner, dated Oct. 26, 2017, attached hereto as **Exhibit 15**.

<sup>29</sup> *Id.*

<sup>30</sup> Edited Excerpt of Protocol, attached hereto as **Exhibit 16**.

the syringe used for administration of Potassium Chloride to reduce the number of syringes used in an execution from three to two. The Pharmacy Owner sent these revisions to the Drug Procurer on November 28, 2017, along with a signed copy of the finalized Pharmacy Services Agreement.<sup>31</sup>

As of December 2017, the Protocol had not yet been updated. In preparation for the transition to the new three-drug Protocol, by the end of 2017, TDOC had acquired a bulk order of commercially manufactured Midazolam, Vecuronium Bromide, and Potassium Chloride from the Pharmacy. This order kickstarted the first revision of the Protocol to add the three-drug protocol. The January 2018 version of the Protocol included both protocol alternatives using commercially-manufactured drugs: (A) lethal injection by Pentobarbital and (B) lethal injection by Midazolam, Vecuronium Bromide, and Potassium Chloride.

<b>CHEMICALS USED IN LETHAL INJECTION</b>	
The Department will use one of the following protocols as determined by the Commissioner:	
<b><u>Protocol A:</u></b>	
<b>Pentobarbital</b>	100 ml of a 50 mg/mL solution (a total of 5 grams)
<b><u>Protocol B:</u></b>	
<b>Midazolam</b>	100 ml of a 5mg/ml solution (a total of 500 mg)
<b>Vecuronium Bromide</b>	100 ml of a 1mg/ml solution (a total of 100 mg)
<b>Potassium Chloride</b>	120 ml of a 2 mEq/ml solution (a total of 240 mEq)

Protocol A was kept because TDOC's search for Pentobarbital was ongoing. Because the January 2018 Protocol does not provide for the use of compounded LIC, there is no discussion of testing in this version of the Protocol.

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<sup>31</sup> Emails between Drug Procurer and Pharmacy Owner, dated Nov. 28, 2017 through Dec. 4, 2017, attached hereto as **Exhibit 17**.

3. Revisions Ahead of July 2018 Protocol

Executions resumed under Tennessee’s current Protocol in mid-2018, beginning with the execution of Billy Ray Irick (“Mr. Irick”) on August 9, 2018. By this point, TDOC had Potassium Chloride and Vecuronium Bromide that would not expire until July 2019 and June 2020, respectively; however, the Midazolam it had previously acquired was scheduled to expire in June 2018, meaning TDOC would need to procure additional Midazolam for executions.<sup>32</sup>

By the time TDOC began efforts to acquire additional Midazolam in 2018, the Pharmacy was no longer able to obtain it in a commercially manufactured form due to suppliers requesting assurances that the drug would not be used for executions. As a result, TDOC began ordering Midazolam in its API form to be compounded by the Pharmacy. Based upon information conveyed to investigators, compounded drugs—in contrast to their commercially manufactured counterparts—should undergo certain testing under pharmaceutical guidelines, have different storage and preparation requirements, and have a much shorter shelf life.

In July 2018, TDOC, in coordination with the Tennessee’s Attorney General’s Office, revised the initial three-drug Lethal Injection Protocol to include reference to these additional requirements where the LIC are compounded. TDOC also removed alternative “A” – the Pentobarbital protocol – given TDOC’s continued inability to obtain it.<sup>33</sup>

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<sup>32</sup> LIC Inventory Page, dated Dec. 30, 2017, attached hereto as **Exhibit 18**.

<sup>33</sup> Edited Protocol, attached hereto as **Exhibit 19**.

**CHEMICALS USED IN LETHAL INJECTION**

The Department will use the following protocol for carrying out executions by lethal injection:

<b>Midazolam</b>	100 ml of a 5mg/ml solution (a total of 500 mg)
<b>Vecuronium Bromide</b>	100 ml of a 1mg/ml solution (a total of 100 mg)
<b>Potassium Chloride</b>	120 ml of a 2 mEq/ml solution (a total of 240 mEq)

Chemicals used in lethal injection executions will either be FDA-approved commercially manufactured drugs; or, shall be compounded preparations prepared in compliance with pharmaceutical standards consistent with the United States Pharmacopeia guidelines and accreditation Departments, and in accordance with applicable licensing regulations.

According to the Drug Procurer, they consulted the Pharmacy Owner in the course of TDOC’s revision of the Protocol, particularly with respect to testing and storage requirements and compliance with the United States Pharmacopocia (“USP”) guidelines. The Drug Procurer told investigators that, the Pharmacy Owner recommended testing for sterility,<sup>34</sup> potency<sup>35</sup> and endotoxins for compounded LIC. Interestingly, both the Pharmacy Owner and Drug Procurer expressed the belief to investigators that sterility testing included endotoxin testing,<sup>36</sup> but according to the Pharmacist, there are separate tests for sterility and endotoxins. Further, the Pharmacist noted that USP Chapter 797 only requires testing for endotoxins when compounding more than 25 doses at a time. When compounding single-dose vials—as the Pharmacist does for TDOC—the Pharmacist understands that USP Chapter 797 does not require endotoxin testing and

<sup>34</sup> Sterility testing is used to confirm sterile products do not contain viable microorganisms before release and patient administration.

<sup>35</sup> Potency testing measures the concentration of the API. It is necessary to ensure the quality, safety, and efficiency of biopharmaceutical products.

<sup>36</sup> The Pharmacy Owner, like the Drug Procurer, is not a pharmacist and has had no pharmaceutical training. The Pharmacy Owner’s medical training consists of on-the-job training as an orthopedic scrub technician.

only requires “skip lot” testing (i.e. testing approximately every other batch) for sterility and potency. Regardless, there is no dispute that TDOC’s current Protocol requires endotoxin testing.

4. July 2018 Protocol and Extra-Protocol Instructions

The resulting, revised Protocol requires a physician’s order for compounded drugs and requires the Pharmacist to compound the drugs “in a clean sterile environment in compliance with pharmaceutical standards for identity, strength, quality, and purity of the compounded drug that are consistent with the United States Pharmacopoeia guidelines and accreditation Departments and in accordance with applicable licensing regulations pertaining to pharmacies compounding sterile preparations.”<sup>37</sup> The current Protocol then references the Pharmacy Services Agreement, which contains nearly identical language.<sup>38</sup> The current Protocol further requires the Pharmacist to arrange for independent testing of compounded drugs for potency, sterility and endotoxins.<sup>39</sup> Finally, it defers to the Pharmacy’s directions, pharmaceutical standards, and the USP guidelines with respect to the transfer, storage and maintenance of compounded LIC,<sup>40</sup> as well as Pharmacy directions for preparing the syringes for use in an execution.<sup>41</sup>

Specific directions related to the preparation of syringes for compounded LIC were not included in the current Protocol itself. Instead, the Pharmacy provided the Drug Procurer with separate preparation instructions for Midazolam—the only compounded LIC in use at the time—in July 2018.<sup>42</sup> Similarly, because compounded drugs must be transported and stored at below-

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<sup>37</sup> July 2018 Protocol, attached hereto as **Exhibit 20** at 35.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* The testing requirements also appeared in a 2015 version of a Pharmacy Services Agreement that TDOC may have had with its previous compounding pharmacy. *See* Agreement, dated June 25, 2015, attached hereto as **Exhibit 21**. This language does not appear in the current Agreement between TDOC and the Pharmacy.

<sup>40</sup> July 2018 Protocol, **Exhibit 20** at 35.

<sup>41</sup> *Id.* at 39.

<sup>42</sup> Email from Pharmacy Owner to Drug Procurer, dated July 16, 2018, including Revised IV Protocol, attached hereto as collective **Exhibit 22**.

freezing temperatures, the Pharmacy also provided Directions for Unpacking and Storage<sup>43</sup> with each shipment of compounded LIC, which were packed with dry ice. The Midazolam Preparation Instructions require transfer of the compounded Midazolam from the freezer to the refrigerator 24 hours prior to use and explain how to prepare the syringe, which includes adding both Midazolam and saline solution to the syringe.<sup>44</sup> Neither the current Protocol nor these instructions explain how far in advance of an execution compounded LIC should be removed from the refrigerator and prepared in a syringe.<sup>45</sup>

In advance of Mr. Irick's scheduled execution, on or about August 7, 2018,<sup>46</sup> the Pharmacy Owner and Pharmacist participated in a phone call with the Executioner and at least one intravenous ("IV") Team Member for the purpose of (1) explaining how to prepare the Midazolam, (2) explaining how to reconstitute the Vecuronium Bromide, and (3) answering questions from the Execution Team.

### C. Execution Training

In order to carry out safe and effective executions, Riverbend Maximum Security Institution ("RMSI") conducts monthly practice drills.<sup>47</sup> Under the Protocol, members of the Execution Team simulate Day 3 (day of execution) of the death watch procedures for at least one hour per month.<sup>48</sup> The training may last longer if needed. Additional training is held within two

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<sup>43</sup> Directions for Unpacking and Storage, attached hereto as **Exhibit 23**.

<sup>44</sup> Revised IV Protocol, **Exhibit 22** at 2-4.

<sup>45</sup> Drug Procurer asked Pharmacy Owner about this via text message on July 5, 2018, to which Pharmacy Owner responded "My assumption is that it would need to be used within an hour. I'll confirm with the pharmacist." Text Message between Drug Procurer and Pharmacy Owner, dated July 5, 2018, attached hereto as **Exhibit 24**.

<sup>46</sup> Emails between Pharmacy Owner and Pharmacist, dated Aug. 7, 2018, attached hereto as **Exhibit 25**; Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 7, 2018, attached hereto as **Exhibit 26**

<sup>47</sup> As part of the investigation, Butler Snow's investigative team attended one of the monthly training sessions in person.

<sup>48</sup> Protocol, **Exhibit 20** at 32.

weeks before a scheduled execution, at which point RMSI conducts rehearsals at least twice per week.<sup>49</sup>

As lethal injection is the primary method of execution in Tennessee, the monthly training focuses on the procedures for carrying out executions by lethal injection. Every quarter, RMSI also practices its procedures for carrying out executions by electrocution. If an execution by electrocution is scheduled, then the Execution Team will focus more on those procedures during the monthly training sessions. The Warden oversees all such training, and the TDOC Commissioner also attends many of the practices. All individuals who undergo the training are required to sign training rosters, which are maintained by TDOC.

During the lethal injection training, all steps of an execution are practiced with the following exceptions, as outlined in the Protocol:

- A. [TDOC staff] volunteers play the roles of the condemned inmate and the physician.
- B. Saline solution is substituted for the lethal chemicals.
- C. A body is not placed in the body bag.<sup>50</sup>

Beyond monthly training, the Executioner receives initial and periodic instruction from a qualified medical professional.<sup>51</sup> For instance, the Executioner and other members of the IV Team have received training on how to start an IV in case the emergency medical technicians (“EMTs”) are not available. During training, the IV Team practices pushing three syringes of saline, and because they cannot push the actual LIC, nor can they compound any LIC on hand, they simulate the remaining syringes.

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<sup>49</sup> Protocol, **Exhibit 20** at 32.

<sup>50</sup> Protocol, **Exhibit 20** at 32.

<sup>51</sup> Protocol, **Exhibit 20** at 32.

III. INVESTIGATIVE ANALYSIS

This section provides Butler Snow’s analysis of the facts learned through document review and investigative interviews based on the three areas of investigation provided by Governor Lee.

**A. Circumstances Surrounding the Scheduled Execution of Oscar Franklin Smith**

Oscar Franklin Smith was originally scheduled to be executed on June 4, 2020.<sup>52</sup> Mr. Smith filed a motion to stay his execution due to the COVID-19 pandemic, and a stay was granted on April 17, 2020.<sup>53</sup> His execution was initially reset for February 4, 2021.<sup>54</sup> The COVID-19 stay was lifted, and Mr. Smith’s execution was reset for April 21, 2022.<sup>55</sup> On March 21, 2022, TDOC informed Mr. Smith that his execution would be carried out by lethal injection “according to the protocol and procedures in TDOC’s Lethal Injection Manual, as amended on July 5, 2018, using a three-drug combination consisting of Midazolam, Vecuronium Bromide, and Potassium Chloride.”<sup>56</sup>

A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Smith on March 16, 2022.<sup>57</sup> The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the independent testing laboratory<sup>58</sup> (the “Lab”) for sterility and potency testing on or about March 18 (Potassium Chloride) and April 6 (Midazolam) of 2022. The Potassium Chloride sample passed sterility testing on March 21, and the Midazolam sample passed

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<sup>52</sup> Order, *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 27**.

<sup>53</sup> Notice – Order – Stay Execution (Death) Granted, *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 28**.

<sup>54</sup> *Id.*

<sup>55</sup> Notice – Order (Other) – Miscellaneous (Sua Sponte), *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 29**.

<sup>56</sup> Smith Notification Letter, dated Mar. 21, 2022, attached hereto as **Exhibit 30**.

<sup>57</sup> Smith Prescription, dated Mar. 16, 2022, attached hereto as **Exhibit 31**.

<sup>58</sup> The Pharmacy has used the same independent testing laboratory since it began working with TDOC.

sterility testing on April 20.<sup>59</sup> The Potassium Chloride sample yielded a within-range potency of 103% on March 31, and the Midazolam sample yielded a within-range potency of 102% on April 8. The Pharmacist subsequently provided the test results to the Drug Procurer.<sup>60</sup> The samples were not tested for endotoxins.

The LIC arrived at RMSI on or about April 12. On April 12, 14 and 18, lethal injection training was conducted at the prison.<sup>61</sup> On April 20, the LIC were moved to the refrigerator for thawing prior to the execution. Also, on April 20, Mr. Smith’s attorney, Kelley Henry (“Ms. Henry”), sent an email to TDOC’s Deputy Commissioner/General Counsel (1) inquiring about whether the LIC to be used in Mr. Smith’s execution had been tested for “strength, sterility, stability, potency, and presence of endotoxins” and (2) requesting a copy of the test results.<sup>62</sup> The Deputy Commissioner/General Counsel informed TDOC Interim Commissioner Lisa Helton (“Interim Commissioner Helton”) about Ms. Henry’s request.

The Deputy Commissioner/General Counsel forwarded the email to the Drug Procurer<sup>63</sup> to determine the status of the LIC testing. The Drug Procurer, in turn, contacted the Pharmacist on April 20 to determine if an endotoxin test had been conducted or if the endotoxin test was the same as sterility testing.<sup>64</sup> According to a text exchange between the Drug Procurer and the Pharmacist: “No endotoxin test, it’s a different test but based on USP 797 the amount we make isn’t required.

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<sup>59</sup> Based on this date, the Pharmacist would have had to send the LIC to the Drug Procurer before the test results came back because the execution was scheduled for the following day (April 21), and the LIC must thaw for 24 hours before they can be used. Butler Snow did not find any evidence of when the LIC were sent for Mr. Smith’s execution.

<sup>60</sup> Testing Reports, dated Mar. 21, 31, and Apr. 8, 20, 2022, attached hereto as **Exhibit 32**.

<sup>61</sup> See *supra* for a discussion of TDOC’s execution training protocols.

<sup>62</sup> Email from K. Henry to D. Inglis, dated April 20, 2022, attached hereto as **Exhibit 33**. Ms. Henry also sent a follow-up email on April 21, 2022, at 5:50:42 PM, again requesting the testing results. A copy of this email is attached hereto as **Exhibit 34**. Later that same day, Ms. Henry sent an email asking TDOC to preserve all records, documents, drugs, and drug paraphernalia that were to be used in Mr. Smith’s execution. A copy of this email is attached hereto as **Exhibit 35**.

<sup>63</sup> Other individuals with TDOC and the Tennessee Attorney General’s office received the email, either by virtue of being cc’d or via forward.

<sup>64</sup> Text messages between Drug Procurer and Pharmacist, dated Apr. 20-21, 2022, attached hereto as **Exhibit 36**.

Is the endotoxin test requested? Sorry I didn't have it tested."<sup>65</sup> The Drug Procurer indicated a belief that endotoxin testing had been done on prior occasions and that they would contact the Pharmacist on the following day to discuss the USP 797 guidelines.<sup>66</sup> Therefore, at least one TDOC employee was aware that no endotoxin testing had been conducted on the LIC during the evening of the day before Mr. Smith's scheduled execution.

1. Day of Execution: TDOC

On the morning of April 21, 2022, the Drug Procurer asked the Pharmacist whether the Lab still had samples and would be able to do the endotoxin testing that day.<sup>67</sup> The Pharmacist responded that the testing could not be done because they would have had to send extra samples for the Lab to do endotoxin testing.<sup>68</sup> Around lunchtime on April 21, TDOC employees who were to be involved in the execution gathered at Interim Commissioner Helton's residence for a final walk-through – which is customary on the scheduled day of an execution. During this time, there were also ongoing conversations between TDOC, the Tennessee Attorney General's Office, and Governor Lee's office. TDOC advised that if the LIC were not tested for endotoxins, then TDOC would need to ask Governor Lee for a reprieve. At that point, the Drug Procurer indicated that the testing was not required by USP guidelines. Even so, it was required by the current Protocol, and as such, TDOC would seek a reprieve because the Protocol was not followed. The Tennessee Attorney General's Office also recommended a reprieve.

During the afternoon of Mr. Smith's execution day, while the reprieve request was still being considered, the Execution Team needed to proceed as though the execution would go as scheduled. For instance, Execution Team members needed to take their stations, and the victims' family needed to be moved to their locations. Media representatives also were scheduled to be at RMSI for the execution. For this reason, Interim Commissioner Helton chose to move forward and

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.* The Pharmacist also testified in a deposition to having tested for endotoxins before, but as explained above, they only did endotoxin testing on the initial batch of Midazolam when they were testing the methodology.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

continue preparing for the execution until the reprieve was issued. Around 4:30 PM CT, the Drug Procurer met the Executioner to get the LIC out of the refrigerator and transport the LIC to the Execution Chamber.<sup>69</sup> About 5:30 PM CT, the Execution Team began preparing the syringes to be used during the execution.

TDOC learned that the reprieve would be issued at 5:45 PM CT. Interim Commissioner Helton advised Warden Tony Mays, who told Mr. Smith about the reprieve. Mr. Smith's attorney and spiritual advisor were also present when the news was delivered. Interim Commissioner Helton also spoke with members of TDOC to assure them that they had done a good job preparing for the execution. Once the execution was called off, TDOC stopped setup of the LIC at approximately 5:51 PM CT.<sup>70</sup> The Execution Team had partially prepared the first (red) set of LIC (saline and Vecuronium Bromide) but had not yet mixed the compounded LIC. TDOC then undertook efforts to preserve the LIC and all documentation in the event of an investigation.<sup>71</sup>

## 2. Day of Execution: Tennessee's Attorney General's Office

Around 1:30 PM CT on April 21, 2022, members of the Tennessee Attorney General's Office met to review documents, review the Protocol, and discuss next steps. The Tennessee Attorney General's Office team concluded that they could not state that TDOC followed the Protocol in preparing for Mr. Smith's execution. Accordingly, the attorneys turned their focus to how best to respond to Mr. Smith's attorney's inquiry. They also spoke with the Pharmacist, who indicated that they had done endotoxin testing in the past but not for the LIC to be used in Mr. Smith's execution. At this point, the Pharmacist purportedly indicated that the lack of endotoxin testing was an "oversight."<sup>72</sup> The group also spoke with the Drug Procurer, and one member of the Tennessee Attorney General's Office spoke with an expert, who was also a pharmacist and

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<sup>69</sup> Text messages between Drug Procurer and Executioner, dated Apr. 21, 2022, attached hereto as **Exhibit 37**.

<sup>70</sup> Drug Procurer text messages, dated Apr. 20-22, 2022, attached hereto as **Exhibit 38**.

<sup>71</sup> Inventory of Items Preserved from Apr. 21, 2022 Execution Prep, attached hereto as **Exhibit 39**.

<sup>72</sup> The Pharmacist was clear when speaking to Butler Snow that only one endotoxin test had ever been performed because it was not required under the USP guidelines based on the amount of drugs compounded. The purpose of the one endotoxin test, performed in May 2018, was to test the Pharmacy's compounding methodology.

explained why endotoxin testing was important. After the reprieve was issued, members of the Tennessee Attorney General's Office were invited to the executive residence for a meeting with Governor Lee regarding the execution events.

### 3. Days Following Cancelled Execution

After issuing the reprieve in connection with Mr. Smith's execution, Governor Lee's office asked for a copy of the current Protocol and other documents that would aid in determining why the LIC were not tested for endotoxins. TDOC compiled the requested documents and provided them to Governor Lee's office. At some point between April 21 and 27, the question was raised regarding whether endotoxin testing had been conducted in connection with the lethal injection executions TDOC conducted as scheduled subsequent to adopting the July 2018 Protocol. The Pharmacist apparently had informed the Drug Procurer that they had not done endotoxin testing for any of the prior executions because the test was not required under USP guidelines. The Pharmacist indicated to Butler Snow that they were surprised when the Drug Procurer asked if endotoxin testing had been performed for the LIC for Mr. Smith's execution because they had never been asked to do endotoxin testing before. The Pharmacist was also unaware that endotoxin testing was part of the Protocol. In fact, Butler Snow has found no evidence that the current Protocol was ever provided to the Pharmacy. It appears that the Pharmacist was following the USP guidelines to determine what tests to conduct on the LIC, because TDOC never sent them the Protocol. The Pharmacist had no way of knowing TDOC finalized and implemented the Protocol. The Tennessee Attorney General's Office requested documents, including all LIC testing records. On April 22, 2022, the Tennessee Attorney General's Office received 31 pages of testing results dating back to 2018, although only 17 of those had been produced previously in litigation.

On April 24, in response to an inquiry from the Governor's office, the Drug Procurer provided the following information regarding TDOC's policies for lethal injection: (1) the Protocol does not require any additional testing of the LIC beyond the tests conducted by the Lab after the Pharmacy compounds the LIC; (2) there is no policy or procedure in place to address how the LIC test results are to be maintained following TDOC's receipt; (3) there is no log book to track periodic testing, since it is not required, but all third-party test results are received and maintained

by the Drug Procurer; and (4) there are no documents evidencing TDOC's review (yearly or otherwise) of the Protocol.<sup>73</sup>

By April 27, it became clear that none of the LIC used and/or prepared for post-2018 executions had been tested for endotoxins. Further, TDOC learned that there were additional problems with the testing of the LIC used in Mr. Irick's execution in 2018 because there was also no potency testing completed.<sup>74</sup> The explanation provided by the Pharmacy Owner at the time was that the potency test conducted for the batch in May 2018 was good for the LIC provided for the scheduled execution of Mr. Irick in August 2018. Through the course of their post Mr. Smith reprieve dialogue with the Pharmacist, TDOC learned that this was in fact not true.

As stated earlier in this Report, there is no indication that TDOC provided the Pharmacy with a copy of the July 2018 Protocol, under which all of the executions covered in this Report were carried out. The Pharmacist did not conduct endotoxin testing unless it was requested, and TDOC did not specifically request endotoxin testing results until the day of Mr. Smith's execution. However, TDOC consistently only requested sterility and potency testing results from the Pharmacy in connection with each scheduled lethal injection execution.<sup>75</sup>

## **B. Adherence to Protocol's Testing Policies Since Update in July 2018**

Since the Protocol was updated in July 2018, there have been a total of seven executions, two of which were by lethal injection, and five of which were by electrocution.<sup>76</sup> Butler Snow's review of TDOC's adherence to the Protocol necessitated a review of each execution carried out by TDOC since adoption of the July 2018 Protocol. Butler Snow discovered that only one sample of Midazolam was ever tested for endotoxins, and no samples of Potassium Chloride were tested

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<sup>73</sup> Emails between Gov. Lee's office and TDOC, dated Apr. 21-24, 2022, attached hereto as **Exhibit 40**.

<sup>74</sup> See *infra* for more information.

<sup>75</sup> TDOC likely did not request endotoxin testing because the Drug Procurer was operating under the mistaken belief that endotoxin testing was incorporated in the sterility testing.

<sup>76</sup> Executions by electrocution are covered under TDOC's Electrocution Protocol (updated March 13, 2017). These executions are only discussed here because, as explained above, TDOC decided to have LIC available for all executions, regardless of the method chosen by the condemned.

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for endotoxins. The only endotoxin test was conducted in May 2018, a few months before Mr. Irick's execution. The following is an illustration of the LIC testing results during the relevant timeframe:

## LIC Testing Results Spreadsheet

Test Date	Drug	Test	Results	Date Received	Inmate
5/22/2018	Midazolam	Suitability	Pass	5/10/2018	Irick
5/14/2018	Midazolam	Container Closure Integrity	Pass	5/10/2018	Irick
5/11/2018	Midazolam	Potency	97.00%	5/10/2018	Irick
5/11/2018	Midazolam	Bacterial Endotoxins	Pass	5/10/2018	Irick
5/25/2018	Midazolam	Sterility	Pass	5/10/2018	Irick
8/6/2018	Midazolam	Sterility	Pass	7/21/2018	Irick
9/24/2018	Midazolam	Potency	94.20%	9/22/2018	Zagorski
10/8/2018	Midazolam	Sterility	Pass	9/22/2018	Zagorski
11/7/2018	Midazolam	Potency	54.20%	10/27/2018	Zagorski
12/4/2018	Midazolam	Potency	89.40%	11/21/2018	Miller
12/5/2018	Midazolam	Sterility	Pass	11/21/2018	Miller
4/26/2019	Midazolam	Potency	104.00%	4/25/2019	Johnson
5/9/2019	Midazolam	Sterility	Pass	4/25/2019	Johnson
7/17/2019	Potassium Chloride	Potency	112.00%	7/16/2019	West
7/30/2019	Potassium Chloride	Sterility	Pass	7/16/2019	West
7/18/2019	Midazolam	Potency	92.40%	7/16/2019	West
7/30/2019	Midazolam	Sterility	Pass	7/16/2019	West
7/31/2019	Potassium Chloride	Suitability	Pass	7/26/2019	West
8/12/2019	Potassium Chloride	Potency	94.00%	8/6/2019	West
8/7/2019	Potassium Chloride	Potency	94.00%	8/6/2019	West
8/9/2019	Potassium Chloride	Sterility	Pass	8/6/2019	West
11/18/2019	Midazolam	Potency	114.00%	11/13/2019	Hall
11/22/2019	Midazolam	Potency	98.60%	11/21/2019	Hall
12/5/2019	Potassium Chloride	Potency	94.70%	12/2/2019	Hall
12/5/2019	Midazolam	Sterility	Pass	11/21/2019	Hall
12/16/2019	Potassium Chloride	Sterility	Pass	12/2/2019	Hall
1/17/2020	Potassium Chloride	Potency	104.00%	1/14/2020	Sutton
1/28/2020	Potassium Chloride	Sterility	Pass	1/14/2020	Sutton
1/27/2020	Midazolam	Potency	100.00%	1/14/2020	Sutton
1/28/2020	Midazolam	Sterility	Pass	1/14/2020	Sutton
7/21/2020	Potassium Chloride	Potency	99.50%	7/17/2020	Nichols

Test Date	Drug	Test	Results	Date Received	Inmate
7/21/2020	Midazolam	Potency	98.40%	7/17/2020	Nichols
7/31/2020	Midazolam	Sterility	Pass	7/17/2020	Nichols
7/31/2020	Potassium Chloride	Sterility	Pass	7/17/2020	Nichols
4/8/2022	Midazolam	Potency	102.00%	4/6/2022	Smith
4/20/2022	Midazolam	Sterility	Pass	4/6/2022	Smith
3/21/2022	Potassium Chloride	Sterility	Pass	3/18/2022	Smith
3/31/2022	Potassium Chloride	Potency	103.00%	3/22/2022	Smith

1. Billy Ray Irick

In May 2018, the Pharmacy sent a sample of its first compounded batch of Midazolam to the external Lab for testing. That sample was tested for method suitability,<sup>77</sup> container closure integrity,<sup>78</sup> potency, bacterial endotoxins, and sterility.<sup>79</sup> Although not all tests are required under the USP, the Pharmacist explained that they requested these tests for their first compounded batch to ensure their compounding process was sound. The sample passed each of the tests and yielded a within-range potency of 97%. It appears that this lot was essentially a “test run,” given that this was the first time the Pharmacy would be compounding Midazolam rather than ordering it in commercially manufactured form. According to the Pharmacy Owner—in text messages<sup>80</sup> with the Drug Procurer—passing the method suitability test indicates that the Pharmacy’s method for compounding the drug is sound and translates across multiple batches. However, passing results on one batch for potency, sterility, and endotoxins does not necessarily indicate that a subsequent batch will yield the same test results. Based on the 45-day shelf life of compounded Midazolam, the batch tested in May 2018 would have surpassed its beyond-use date prior to Mr. Irick’s execution date in August 2018.

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<sup>77</sup> Method suitability testing is performed to determine whether any inhibitory or antimicrobial properties in a drug product will prevent the sterility test from detecting the presence of viable microorganisms.

<sup>78</sup> Container closure integrity testing is performed to evaluate the adequacy of a closure in maintaining a sterile barrier.

<sup>79</sup> Testing Reports, attached hereto as **Exhibit 41**.

<sup>80</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 42**.

A physician's prescription for Midazolam was issued for Mr. Irick on July 18, 2018,<sup>81</sup> and the Pharmacy compounded the Midazolam on July 20.<sup>82</sup> A sample of that lot was sent for testing on or about July 21, 2018.<sup>83</sup> This lot was tested for sterility on August 6, 2018 and passed,<sup>84</sup> and the Pharmacy Owner sent those test results to the Drug Procurer via email the same day.<sup>85</sup> Text messages between the Drug Procurer and the Pharmacy Owner indicate that, at TDOC's urging, the Pharmacy Owner shipped the Midazolam to TDOC before receiving those test results.<sup>86</sup>

This lot of Midazolam was not tested for potency or endotoxins. When the sterility test came back, the Drug Procurer asked the Pharmacy Owner via text message about the potency results.<sup>87</sup> The Pharmacy Owner replied that the pharmacist did not request a potency verification given that our methodology and suitability passed in May with the same midazolam lot.<sup>88</sup> The Drug Procurer asked whether this indicated that "the potency portion is good for that whole 50-gram batch."<sup>89</sup> The Pharmacy Owner responded:

"Our methodology is good for any batch of midazolam. It just verifies that how we process the compound yields the intended dosing within an acceptable range. Potency testing isn't required for every lot, however, given the sensitive nature of

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<sup>81</sup> Irick Prescription, dated July 18, 2018, attached hereto as **Exhibit 43**.

<sup>82</sup> Email from Pharmacy Owner to Drug Procurer, dated Aug. 8, 2018, including copy of Logged Formula Worksheet, dated July 20, 2018, attached hereto as **Exhibit 44**.

<sup>83</sup> Testing Report, dated Aug. 6, 2018, attached hereto as **Exhibit 45**.

<sup>84</sup> *Id.* (25)

<sup>85</sup> Email from Pharmacy Owner to Drug Procurer, dated Aug. 6, 2018, including copy of Testing Report, dated Aug. 6, 2018, attached hereto as **Exhibit 46**.

<sup>86</sup> Text messages between Drug Procurer and Pharmacy Owner, dated July 25-26, 2018, attached hereto as **Exhibit 47**.

<sup>87</sup> Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 48**.

<sup>88</sup> *Id.*

<sup>89</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 7, 2018, attached hereto as **Exhibit 49**.

its intended use, I have instructed [the Pharmacist] to request it every time moving forward.”<sup>90</sup>

The Drug Procurer accepted this explanation and did not inform the Pharmacy Owner that a potency test was nevertheless required under the Protocol. It appears that this batch of Midazolam was used in the execution of Mr. Irick on August 9, 2018.

## 2. Edmund Zagorski

Edmund Zagorski (“Mr. Zagorski”) was initially scheduled to be executed on October 11, 2018 by lethal injection.<sup>91</sup> A physician’s prescription for Midazolam was issued for Mr. Zagorski on September 21, 2018.<sup>92</sup> Upon compounding the Midazolam, the Pharmacy sent a sample of that lot to the Lab for testing on or about September 22, which was tested for both sterility and potency.<sup>93</sup> While this testing was pending, the Drug Procurer asked the Pharmacy Owner “to go ahead and ship the latest batch” on September 25, which the Pharmacy Owner did.<sup>94</sup> The sample ultimately passed the sterility test and yielded a within-range potency of 94.2%.<sup>95</sup> The Pharmacy Owner sent these results to the Drug Procurer via email on October 10, 2018.<sup>96</sup> The sample was not tested for endotoxins.

On October 8, Mr. Zagorski apparently submitted an Affidavit Concerning Method of Execution purporting to waive his right to execution by lethal injection and electing to be executed

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<sup>90</sup> *Id.*

<sup>91</sup> Zagorski Notification Letter, dated Sept. 27, 2018, attached hereto as **Exhibit 50**.

<sup>92</sup> Zagorski Prescription, dated Sept. 21, 2018, attached hereto as **Exhibit 51**.

<sup>93</sup> Testing Reports, dated Sept. 24 and Oct. 8, 2018, attached hereto as **Exhibit 52**.

<sup>94</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Sept. 25, 2018, attached hereto as **Exhibit 53**.

<sup>95</sup> Testing Reports, dated Sept. 24 and Oct. 8, 2018, attached hereto as **Exhibit 54**.

<sup>96</sup> Email from Pharmacy Owner to Drug Procurer, dated Oct. 10, 2018, including Testing Report, attached hereto as **Exhibit 55**.

by electrocution instead.<sup>97</sup> Given this late change, then Tennessee Governor Bill Haslam issued a reprieve on October 11, which remained in effect until October 21.<sup>98</sup> Mr. Zagorski ultimately confirmed his decision to be executed by electrocution, to which TDOC agreed, and his execution was rescheduled for November 1. Nevertheless, although not explicitly required by the Protocol, TDOC made the decision from that point forward to obtain LIC for each execution in the event of a last-minute method change. Accordingly, a second physician’s prescription for Midazolam was issued for Mr. Zagorski on October 24,<sup>99</sup> the Pharmacy compounded the Midazolam, and sent a sample to the Lab for sterility and potency testing on or about October 27.<sup>100</sup> The sample was not tested for endotoxins. By the time the potency test was completed on November 7—yielding a below-range result of 54.2%—Mr. Zagorski had already been executed by electrocution on November 1.

### 3. David Earl Miller

David Earl Miller (“Mr. Miller”) was scheduled to be executed on December 6, 2018, and TDOC notified Mr. Miller by letter dated November 21 that it planned to carry out this execution by lethal injection.<sup>101</sup> A physician’s prescription for Midazolam was issued for Mr. Miller on November 16,<sup>102</sup> and the Pharmacy compounded the Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 21.<sup>103</sup> Mr. Miller elected to be executed by electrocution on November 23.<sup>104</sup> The sample later passed sterility testing but yielded a below-

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<sup>97</sup> Letter from D. Inglis to K. Henry re: *State of Tennessee v. Edmund Zagorski*, M1996-00110-SC-DPE-DD, dated Oct. 9, 2018, attached hereto as **Exhibit 56**.

<sup>98</sup> Zagorski Reprieve, dated Oct. 11, 2018, attached hereto as **Exhibit 57**.

<sup>99</sup> Second Zagorski Prescription, attached hereto as **Exhibit 58**.

<sup>100</sup> Testing Report, dated Nov. 7, 2018, attached hereto as **Exhibit 59**.

<sup>101</sup> Miller Notification Letter, dated Nov. 21, 2018, attached hereto as **Exhibit 60**.

<sup>102</sup> Miller Prescription, dated Nov. 16, 2018, attached hereto as **Exhibit 61**.

<sup>103</sup> Testing Reports, dated Dec. 4, 5, 2018, attached hereto as **Exhibit 62**.

<sup>104</sup> Miller Notification Letter signed by Miller, dated Nov. 23, 2018, attached hereto as **Exhibit 63**.

range potency of 89.4%.<sup>105</sup> The sample was not tested for endotoxins. The Midazolam was not used, as Mr. Miller was executed by electrocution on December 6 as scheduled.

4. Donnie Edward Johnson

Donnie Edward Johnson (“Mr. Johnson”) was scheduled to be executed on May 16, 2019 by lethal injection.<sup>106</sup> A physician’s prescription for Midazolam was issued for Mr. Johnson on April 17, 2019,<sup>107</sup> the Pharmacy compounded the Midazolam, and sent a sample to the Lab for sterility and potency testing on or about April 25.<sup>108</sup> The potency test came back first, on April 26, with a within-range result of 104%. The Pharmacy Owner sent this result to the Drug Procurer on April 29.<sup>109</sup> While the sterility test was still pending, the Drug Procurer asked the Pharmacy Owner via text message if they could send the Midazolam to TDOC early, stating “[It would] be good to go ahead and get it stored since next week will be execution week and a little hectic.”<sup>110</sup> The Pharmacy Owner agreed and shipped the Midazolam on May 8 via priority overnight.<sup>111</sup> The package arrived and the sterility test came back the next day—May 9—with a passing result, which the Pharmacy Owner sent to the Drug Procurer.<sup>112</sup> The sample was not tested for endotoxins. Mr. Johnson was executed by lethal injection on May 16 as scheduled with the compounded Midazolam received from the Pharmacy and the unexpired, commercially-manufactured

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<sup>105</sup> Testing Reports, **Exhibit 64**.

<sup>106</sup> Johnson Notification Letter, dated Apr. 16, 2019, attached hereto as **Exhibit 65**.

<sup>107</sup> Johnson Prescription, dated Apr. 17, 2019, attached hereto as **Exhibit 66**.

<sup>108</sup> Testing Reports, dated Apr. 26 and May 9, 2019, attached hereto as **Exhibit 67**.

<sup>109</sup> Email from Pharmacy Owner to Drug Procurer, dated Apr. 29, 2019, including Testing Report, attached hereto as **Exhibit 68**.

<sup>110</sup> Text messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019, attached hereto as **Exhibit 69**.

<sup>111</sup> Text messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019, attached hereto as **Exhibit 70**.

<sup>112</sup> Text messages between Pharmacy Owner and Drug Procurer, dated May 9, 2019, attached hereto as **Exhibit 71**; Email from Pharmacy Owner to Drug Procurer, dated May 9, 2019, including Testing Report, attached hereto as **Exhibit 72**.

Vecuronium Bromide and Potassium Chloride that TDOC still had in its inventory. Following Mr. Johnson's execution, on May 20, 2019, Ms. Henry requested "all data regarding the lethal injection chemicals used in the execution including the results of the sterility testing of the chemicals[.]"<sup>113</sup>

5. Stephen West

Stephen West ("Mr. West") was scheduled to be executed on August 15, 2019 by lethal injection.<sup>114</sup> Because the Potassium Chloride in TDOC's inventory would expire in July 2019, TDOC needed to acquire both Midazolam and Potassium Chloride in advance of Mr. West's planned execution. As with the Midazolam in early 2018, the Pharmacy was no longer able to obtain commercially-manufactured Potassium Chloride, necessitating it to compound the drug instead. In preparation for this switch, the Pharmacist drafted separate Preparation Instructions for Potassium Chloride at the Drug Procurer's request.<sup>115</sup> The Pharmacy Owner and Drug Procurer exchanged drafts of these instructions on June 26, 2019, with the Drug Procurer making edits to the quantity of saline, number of syringes, and certain outlined steps.<sup>116</sup> The Pharmacy Owner forwarded the Drug Procurer's revised draft to the Pharmacist, who approved the same on July 2.<sup>117</sup> Like the Midazolam Preparation Instructions, these instructions require transfer of the compounded Potassium Chloride from the freezer to the refrigerator 24 hours prior to use and explain how to prepare the syringe, but they do not instruct on how far in advance of an execution to prepare that syringe.

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<sup>113</sup> Email from K. Henry to D. Inglis, dated May 20, 2019, attached hereto as **Exhibit 73**.

<sup>114</sup> West Notification Letter, attached hereto as **Exhibit 74**.

<sup>115</sup> Text messages between Drug Procurer and Pharmacy Owner, dated June 17, 21 and 24, 2019, attached hereto as **Exhibit 75**.

<sup>116</sup> Emails between Drug Procurer and Pharmacy Owner, dated June 26, 2019, including Potassium Chloride Preparation Instructions, attached hereto as **Exhibit 76**.

<sup>117</sup> Emails between Drug Procurer, Pharmacy Owner and Pharmacist, dated June 26 and July 2, 2019, attached hereto as **Exhibit 77**.

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A physician's prescription for Midazolam and Potassium Chloride was issued for Mr. West on July 12, 2019.<sup>118</sup> The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the Lab for sterility and potency testing on or about July 16.<sup>119</sup>

The Midazolam sample yielded a within-range potency of 92.4% on July 18, but the Potassium Chloride sample yielded an above-range potency of 112% on July 17.<sup>120</sup> The Pharmacy Owner sent both results to the Drug Procurer on July 24.<sup>121</sup> By separate text message, the Pharmacy Owner instructed the Drug Procurer to "scratch that batch" of Potassium Chloride in light of the above-range potency result and informed the Drug Procurer that the Pharmacy had prepared and sent another batch for testing.<sup>122</sup> The Midazolam sample passed sterility testing on July 30, and the Pharmacy Owner sent those results to the Drug Procurer via email the next day.<sup>123</sup>

On August 1, the Pharmacy Owner informed the Drug Procurer via text message that the Pharmacy was "having issues with the potassium chloride" and that they "can't use it" because it was "falling out of solution."<sup>124</sup> According to investigative interviews, when a drug is falling out of solution, it means the API is not fully dissolving into the intended liquid form during the compounding process. The Pharmacy ultimately compounded several batches and sent a successful sample of one of those batches to the Lab for sterility and potency testing on or about

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<sup>118</sup> West Prescription, dated July 12, 2019, attached hereto as **Exhibit 78**.

<sup>119</sup> Testing Reports, dated July 17, 30, 2019, attached hereto as **Exhibit 79**.

<sup>120</sup> *Id.*

<sup>121</sup> Email from Pharmacy Owner to Drug Procurer, dated July 24, 2019, including Testing Reports, attached hereto as **Exhibit 80**.

<sup>122</sup> Text messages between Pharmacy Owner and Drug Procurer, dated July 29-31, 2019, attached hereto as **Exhibit 81**.

<sup>123</sup> Email from Pharmacy Owner to Drug Procurer, dated July 31, 2019, including Testing Report, attached hereto as **Exhibit 82**.

<sup>124</sup> Text messages between Pharmacy Owner and Drug Procurer, dated Aug. 1, 2019, attached hereto as **Exhibit 83**.

August 6, 2019.<sup>125</sup> It appears a separate sample was also sent for Suitability testing and passed.<sup>126</sup> On August 8, while this testing was pending, the Drug Procurer asked the Pharmacy Owner via text message if they could send the LIC the following day, explaining “[the] higher ups [don’t] wanna [sic] wait till [sic] Tuesday.”<sup>127</sup> The Pharmacy Owner agreed. The Drug Procurer also asked if they could rely on the sterility testing from a prior batch of Potassium Chloride for sterility on the new batch.<sup>128</sup> Initially, the Pharmacy Owner replied “Absolutely.” However, in response to further questioning by the Drug Procurer regarding USP guidelines for relying on testing from a prior batch, the Pharmacy Owner explained, “You could rely on that as proof that our methodology is valid. You cannot apply one lot’s sterility to another lot.”<sup>129</sup>

The Drug Procurer and Pharmacy Owner made further edits to the Pharmacy’s instructions for Potassium Chloride on August 8.<sup>130</sup> On August 9, the Pharmacy Owner also sent the Drug Procurer an “in-house sterility report” for the Potassium Chloride batch, which showed a passing result.<sup>131</sup> The Drug Procurer continued to follow up with the Pharmacy Owner via text message in the subsequent days regarding test results.<sup>132</sup> On August 12, the Pharmacy Owner emailed the potency test report for the Potassium Chloride, which showed a within-range potency of 94%.<sup>133</sup>

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<sup>125</sup> Testing Reports, dated Aug. 7, 12, 2019, attached hereto as **Exhibit 84**.

<sup>126</sup> Testing Reports, dated July 31, 2019, attached hereto as **Exhibit 85**.

<sup>127</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 86**.

<sup>128</sup> Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 87**.

<sup>129</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 88**.

<sup>130</sup> Emails between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, including Potassium Chloride Preparation Instructions, attached hereto as **Exhibit 89**.

<sup>131</sup> Email from Pharmacy Owner to Drug Procurer, dated Aug. 9, 2019, including In-House Sterility Report, dated Aug. 6, 2019, attached hereto as **Exhibit 90**. Note that the Protocol requires the Pharmacist to arrange **independent** testing of the LIC. *See* Protocol, **Exhibit 20** at 35.

<sup>132</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8-12, 2019, attached hereto as **Exhibit 91**.

<sup>133</sup> Emails from Pharmacy Owner to Drug Procurer, dated Aug. 12, 2019, including Testing Reports dated Aug. 7, 12, 2019, attached hereto as **Exhibit 92**.

The sample was not tested for endotoxins. Ultimately, Mr. West elected to be executed by electrocution, which proceeded as scheduled on August 15.

6. Lee Hall

Lee Hall (“Mr. Hall”) was scheduled to be executed on December 5, 2019 by lethal injection.<sup>134</sup> A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Hall on November 1, 2019.<sup>135</sup> Shortly thereafter, Mr. Hall elected to be executed by electrocution; however, consistent with its practice, TDOC proceeded to obtain back-up LIC. The Pharmacy compounded a batch of Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 13.<sup>136</sup> The potency test came back on November 18 with an above-range potency of 114%. The Pharmacy Owner sent this result to the Drug Procurer via email on November 20.<sup>137</sup>

The Pharmacy compounded a second batch of Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 21.<sup>138</sup> The potency test on that sample came back on November 22 with a within-range potency of 98.6%. On November 25, the Pharmacy Owner shipped two packages to the Drug Procurer—presumably the Midazolam and Potassium Chloride—and sent shipping information via text message.<sup>139</sup> The Pharmacy Owner then sent the Midazolam potency result to the Drug Procurer via email on November 26.<sup>140</sup>

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<sup>134</sup> Hall Notification Letter, dated Nov. 5, 2019, attached hereto as **Exhibit 93**.

<sup>135</sup> Hall Prescription, dated Nov. 1, 2019, attached hereto as **Exhibit 94**.

<sup>136</sup> Testing Reports, dated Nov. 18, 2019, attached hereto as **Exhibit 95**.

<sup>137</sup> Email from Pharmacy Owner to Drug Procurer, dated Nov. 20, 2019, including Testing Report dated Nov. 18, 2019, attached hereto as **Exhibit 96**.

<sup>138</sup> Testing Report, dated Nov. 22, 2019, attached hereto as **Exhibit 97**.

<sup>139</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Nov. 25, 2019, attached hereto as **Exhibit 98**.

<sup>140</sup> Email from Pharmacy Owner to Drug Procurer, dated Nov. 26, 2019, attached hereto as **Exhibit 99**.

At some point, the Pharmacy also compounded a batch of Potassium Chloride and sent it to the Lab for sterility and potency testing; however, on December 2, the Pharmacy Owner texted the Drug Procurer to inform him that they had “missed the mark by 2% points” on the Potassium Chloride and were sending a new batch.<sup>141</sup> The Pharmacy sent a sample of that new batch to the Lab for potency and sterility testing on or about December 2.<sup>142</sup> The Pharmacy Owner then mailed the new Potassium Chloride to TDOC on December 3.<sup>143</sup> On December 5, the second batch of Midazolam passed sterility testing and the second batch of Potassium Chloride yielded a within-range potency of 94.7%.<sup>144</sup> The Pharmacy Owner sent both results to the Drug Procurer the same day.<sup>145</sup> Mr. Hall was executed via electrocution as scheduled that evening. The Pharmacy did not receive a passing sterility result on the Potassium Chloride until December 16.<sup>146</sup> None of the samples were tested for endotoxins.

## 7. Nicholas Sutton

Nicholas Sutton (“Mr. Sutton”) was scheduled to be executed on February 20, 2020. A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Sutton on December 19, 2019.<sup>147</sup> Around that time, the Pharmacy Owner—TDOC’s only contact at the Pharmacy—began transitioning out of the Pharmacy as a result of a buyout of their ownership share, with their last day scheduled for January 15, 2020.<sup>148</sup> The Drug Procurer and the New

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<sup>141</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Nov. 25 and Dec. 2, 2019, attached hereto as **Exhibit 100**.

<sup>142</sup> Testing Reports, dated Dec. 5, 16, 2019, attached hereto as **Exhibit 101**.

<sup>143</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Dec. 3, 2019, attached hereto as **Exhibit 102**.

<sup>144</sup> Testing Reports, dated Nov. 22, Dec. 5, 16, 2019, attached hereto as **Exhibit 103**.

<sup>145</sup> Email from Pharmacy Owner to Drug Procurer, dated Dec. 5, 2019, including Testing Reports dated Nov. 22 and Dec. 5, 2019, attached hereto as **Exhibit 104**.

<sup>146</sup> Testing Reports, dated Dec. 5, 16, 2019, attached hereto as **Exhibit 105**.

<sup>147</sup> Sutton Prescription, dated Dec. 19, 2019, attached hereto as **Exhibit 106**.

<sup>148</sup> Text messages between Drug Procurer and Pharmacy Owner, dated Dec. 25, 2019 and Jan. 2, 2020, attached hereto as **Exhibit 107**.

Pharmacy Owner discussed TDOC's desire to continue working with the Pharmacy. Thereafter, the Drug Procurer began communicating directly with the Pharmacist, not the Pharmacy Owner.

The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the Lab for sterility and potency testing on or about January 14, 2020.<sup>149</sup> The Potassium Chloride yielded a within-range potency of 104% on January 17.<sup>150</sup> On January 21, Mr. Sutton elected to be executed by electrocution.<sup>151</sup> The Midazolam ultimately yielded a within-range potency of 100% on January 27, and both the Midazolam and Potassium Chloride passed their sterility tests on January 28.<sup>152</sup> The samples were not tested for endotoxins. Butler Snow has not seen any record to indicate that the Pharmacist sent these results to TDOC prior to Mr. Sutton's execution. Mr. Sutton was executed by electrocution as scheduled on February 20, 2020.

### **C. Clarity of and Adherence to the July 2018 Protocol**

#### **1. Inconsistencies in the Protocol**

Many individuals interviewed by Butler Snow indicated that there are inconsistencies contained with the July 2018 Protocol. The interviewees attributed any inconsistencies to revisions being made to one section or an addition of a new section without reviewing the entire document to determine if other areas have been impacted. Beyond the LIC testing failures that are the primary focus of this investigation, gaps and inconsistencies have been noted, particularly by TDOC employees, but changes have yet to be made. For instance, as noted above, one of the most significant gaps is the absence of any reference to the Drug Procurer or their responsibilities in the Protocol. It is Butler Snow's understanding that although the term "Drug Procurer" came about through litigation, the Drug Procurer responsibilities preexisted any litigation referencing the role. The current Protocol does not have any discussion of steps to be taken by the Drug Procurer when

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<sup>149</sup> Testing Reports, dated Jan. 17, 27, 28, 2020, attached hereto as **Exhibit 108**.

<sup>150</sup> Testing Reports, dated Jan. 17, 28, 2020, attached hereto as **Exhibit 109**.

<sup>151</sup> Sutton Affidavit Concerning Method of Execution, attached hereto as **Exhibit 110**.

<sup>152</sup> Testing Reports, dated Jan. 17, 27, 28, 2020, attached hereto as **Exhibit 111**.

acquiring LIC. Furthermore, there is no discussion of how the Drug Procurer (or any other individual) should go about confirming that the required independent testing has been conducted.

Another issue with the current Protocol raised during the investigative interviews addressed the storage and accountability of the compounded LIC. For example, the Protocol states that the compounded LIC are to be stored in “an unmovable heavy gauge steel container with security grade locks.”<sup>153</sup> The Investigative Team observed that the LIC are stored securely but not in an “unmovable heavy gauge steel container” as mandated. As a result, the Protocol should be revised to reflect the true nature in which the LIC are stored. There are also no LIC temperature requirements referenced in the Protocol, no LIC storage guidelines, or instructions regarding when the LIC should be removed to allow for thawing. Accordingly, TDOC relies exclusively on the instructions from the Pharmacy with regard to how the compounded LIC are to be stored.<sup>154</sup>

Finally, another unanswered question exists regarding how far in advance of an execution a compounded LIC should be removed from the refrigerator and prepared in a syringe. Neither the Protocol nor the Pharmacy’s instructions address this issue. The compounded LIC have a very short shelf-life, and this information is seemingly essential to ensuring an execution is carried out with only viable LIC.

## 2. Following the Protocol

Inconsistencies in the Protocol preclude TDOC’s ability to follow the Protocol to the letter in practice, and there is no formal process for determining if and when TDOC should deviate from the Protocol. The most egregious deviation seen by Butler Snow is the failure to test the LIC for endotoxins (and potency in Mr. Irick’s case). The Drug Procurer indicated that they consulted the Pharmacy Owner when drafting the July 2018 Protocol. The similarities in language used in the revised January 2018 Protocol and the Pharmacy Services Agreement relating to same corroborate the Drug Procurer’s recollection; however, Butler Snow has not uncovered any written

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<sup>153</sup> July 2018 Protocol, **Exhibit 20** at 35.

<sup>154</sup> Directions for Unpacking and Storage, **Exhibit 23**.

communications between the Drug Procurer and the Pharmacy Owner regarding changes to the Protocol between January and July 2018. Similarly, Butler Snow has found no evidence that the current Protocol was ever sent to the Pharmacy. Instead, it appears that the Drug Procurer only sent the six-page drafts of sections regarding the chemicals used, their set-up and preparation, and the sequence and administration of the chemicals during the process of preparing the initial January 2018 iteration of the Protocol.

Both the Pharmacy Owner and Drug Procurer shared a misunderstanding of endotoxin testing, specifically whether such testing is included in sterility testing, and based on this misunderstanding, it appears neither consulted the Pharmacist on this topic in the course of discussing the July 2018 Protocol. Crucially, the Pharmacy never received a copy of these revisions or a complete copy of the July 2018 Protocol from TDOC, and the Pharmacist was never informed that the Protocol requires testing for potency, sterility, and endotoxins.

Other examples include the storage of the LIC, as well as TDOC's efforts to have LIC on hand even if the condemned has chosen electrocution as the method of execution. This practice began after the execution of Mr. Zagorski, but at least one TDOC employee indicated that the decision to have LIC on hand as a backup method is not required by the Protocol. Another example is in the disposal of expired LIC. Under the Protocol, the LIC is to be *disposed of upon expiration by hazardous waste pick-up*. However, inspections are only required to be done on a semi-annual basis, and on at least one occasion, LIC were disposed of that had been expired for several months.<sup>155</sup> With only semi-annual inspections, it is possible that expired LIC may be sitting for months before being disposed of in accordance with the Protocol, which increases the possibility of expired LIC being used inadvertently during an execution.

At least one TDOC employee indicated that when reviewed by a person familiar with the actual process followed during an execution, the Protocol is not strictly followed because it is inaccurate. Timing of events during execution was specifically noted as an area of the Protocol that needed to be examined and revised.

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<sup>155</sup> Dep. Tr. of Warden Tony Mays at 193:25-196:25, attached hereto as **Exhibit 112**.

### 3. No Checks and Balances

There are no internal policies to ensure the Protocol is followed. Deviations occur, and although such deviations may ensure compliance with USP guidelines in the context of compounded LIC, this does not change the fact that the Protocol is not being followed. Commissioners Parker and Helton both indicated that it is ultimately their responsibility to ensure the Protocol is being followed, but to do so, a more rigorous review system must be put in place to ensure accountability. Several individuals referenced TDOC's general preference to have limited documentation and a hesitance to make changes to the Protocol, but the overall sense is that the Protocol needs to be reviewed to ensure that it is consistent in all aspects.

Furthermore, there is no structured review process. Members of the Execution Team<sup>156</sup> are required to review the Protocol annually once they become members of the Execution Team, but there is no verification process. According to the Protocol, the Warden or his designee holds an annual class to review the Protocol, but this training was not mentioned during Butler Snow's interviews with TDOC employees. Some RMSI training records identify the topic of training as "Protocol" via "lethal injection" or "electrocution," which may be a reference to the above-referenced class. When asked, some individuals stated they review the entire Protocol multiple times a year, and many indicated that they review portions of the Protocol when needed. It is imperative that all individuals involved understand what is required under the Protocol and how to meet those requirements. See recommendations below for how to improve this process.

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<sup>156</sup> Under the Protocol, the Execution Team consists of the Warden, Associate Warden of Security, Executioner, IV Team, Extraction Team, Death Watch Team, Lethal Injection Recorder, Facility Maintenance Supervisor, ITS Security Systems Technician(s), and Escort Officers. July 2018 Protocol at 32.

## **D. TDOC Staffing Considerations**

Butler Snow also attended one of the monthly lethal injection training sessions to observe the TDOC staff's involvement in the execution process. This allowed the investigative team to assess (1) the staff's expertise in carrying out lethal injection executions and (2) their ability to comply with the current Protocol. Butler Snow notes that all TDOC training participants appeared to be extremely professional, serious, dedicated and committed.

As far as the failure to test the LIC for endotoxins, there were no checks and balances in place to ensure testing occurred. Butler Snow's investigation revealed that neither the Pharmacy nor the Pharmacist ever received a full copy of the July 2018 Protocol, or even a partial copy that spoke to the testing requirements. Only one TDOC employee—the Drug Procurer—received the testing reports from the Pharmacy, and as a result, no one else had any insight into whether the LIC were prepared and tested in accordance with the Protocol. It should be noted that the Drug Procurer does not have a medical or pharmaceutical background, and as a result, they do not have any formal training that would aid them in understanding testing reports or assessing which tests are necessary for compounded LIC. It should be further noted that there is no Drug Procurer job description or list of duties stating that they are responsible for ensuring the LIC are properly tested in accordance with the current Protocol. Even so, a plain reading of the third-party lab reports indicates that only one endotoxin test occurred, and that was in May 2018. The fact of the matter is not one TDOC employee made it their duty to understand the current Protocol's testing requirements and ensure compliance with same. And, based upon information provided during investigative interviews, the Former Commissioner; Interim Commissioner; Deputy Commissioner/General Counsel; and Drug Procurer were in the best positions to ensure compliance with the Protocol.

While medical training may not be strictly necessary to perform the roles required for executions, it is certainly beneficial. Members of the Execution Team receive some medical training on how to start IVs, but other instruction on preparing and delivering the LIC during an execution came via instructions and a phone call with the Pharmacy. The Pharmacy Owner recalled that their impression from that phone call was that the members of the Execution Team they spoke

with were inexperienced in preparing syringes for injection. Neither the Executioner nor the IV Team Member recalled this phone call at the time of this Investigation. Even though the Executioner<sup>157</sup> has no formal healthcare training, they have participated in 13 executions for the state of Tennessee and have observed an execution in at least 1 other state. They learned how to fulfill their role primarily through on-the-job training and are very experienced at this point in time. It would be difficult to find another individual, however, with this experience and/or medical training to perform executions, because of the Hippocratic oath. Accordingly, in the event that this individual leaves TDOC, there does not appear to be anyone in place prepared or qualified to assume this role.

Additionally, placing the onus of finding LIC and verifying that the LIC are fit for use per the Protocol and USP guidelines is an enormous task to place on one individual, especially when they have other roles to fill and particularly when they are given zero guidance on how to carry out these tasks. Moreover, this method does not allow for any checks and balances whatsoever. Putting all of this responsibility on one person seems like an abdication of responsibility by TDOC leadership and the reason for the failures to comply with the current Protocol cited in this Report. See the recommendations below for how to remedy this issue.

#### **IV. Investigative Findings and Recommendations**

As independent investigators, Butler Snow conducted a comprehensive review of the available and relevant evidence concerning the circumstances which led Governor Lee to issue a reprieve in connection with the April 21, 2022, scheduled execution of Mr. Smith. In addition to this issue, the investigative team also (1) examined Tennessee's Lethal Injection Protocol and any deviations from same prior to April 21 and (2) determined the extent of TDOC's staff's responsibility relating to these issues. As previously stated, the investigative findings are primarily based upon the information gleaned through witness interviews as well as an extensive review of thousands of pages of documents and/or data. While the interviews were very insightful, they

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<sup>157</sup> The Executioner is not involved in the testing of the LIC but is aware of the requirement by virtue of the Protocol.

further showed the absence of adequate expertise, guidance, and counsel either enlisted by or provided to TDOC in connection with Tennessee's lethal injection process. Instead, TDOC operated in a task-oriented, tunnel-vision manner that failed to appreciate the interwoven nature of the lethal injection process as a whole.

## A. Investigative Findings

Based on the evidence obtained in the investigation, Butler Snow has made the following findings:

### 1. **Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution**

- There is no evidence that any failure to test the lethal injection chemicals for endotoxins in connection with Mr. Smith's scheduled execution on April 21 was intentional.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, it ever provided the pharmacy tasked with testing Tennessee's lethal injection chemicals with a copy of Tennessee's lethal injection protocol.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, any employee ever informed the pharmacy tasked with testing Tennessee's lethal injection chemicals that it should conduct an endotoxin test on all lethal injection chemicals—until the eve of Mr. Smith's scheduled execution on April 21.
- The evidence shows that the pharmacy tasked with testing Tennessee's lethal injection chemicals only tested these chemicals for *potency and sterility*, because the pharmacy followed the United States Pharmacopeia testing guidelines, not Tennessee's lethal injection protocol.

### 2. **Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update**

- There evidence shows that the lethal injection chemicals used in the August 9, 2018, execution of Mr. Billy Ray Irick ("Mr. Irick") were not tested for endotoxins. The evidence further shows that the Midazolam used during Mr. Irick's execution was not tested for potency.
- The evidence shows that, although Edmund Zagorski ("Mr. Zagorski") was executed via electrocution on November 1, 2018, the lethal injection chemicals prepared in the event

Mr. Zagorski changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins and failed the potency testing.

- The evidence shows that, although David Earl Miller ("Mr. Miller") was executed via electrocution on December 6, 2018, the lethal injection chemicals prepared in the event Mr. Miller changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that the lethal injection chemicals used in the May 16, 2019, execution of Mr. Donnie Edward Johnson ("Mr. Johnson") were not tested for endotoxins.
- The evidence shows that, although Stephen West ("Mr. West") was executed via electrocution on August 15, 2019, the lethal injection chemicals prepared in the event Mr. West changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Lee Hall ("Mr. Hall") was executed via electrocution on December 5, 2019, the lethal injection chemicals prepared in the event Mr. Hall changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Nicholas Sutton ("Mr. Sutton") was executed via electrocution on February 20, 2020, the lethal injection chemicals prepared in the event Mr. Sutton changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.

### **3. TDOC staffing considerations**

- The evidence shows that TDOC leadership placed an inordinate amount of responsibility on the Drug Procurer without providing much, if any, guidance; help; or assistance. Instead, TDOC leadership viewed the lethal injection process through a tunnel-vision, result-oriented lens rather than provide the necessary guidance and counsel to ensure that Tennessee's lethal injection protocol was thorough, consistent, and followed.

#### **B. Recommendations**

The instant investigation has helped bring to light issues that have impacted TDOC's ability to comply with Tennessee's Lethal Injection Protocol since it was put in place in 2018. As a result,

Butler Snow makes the following recommendations for corrective action, further investigation, or training:

- Consider hiring a full-time employee or retaining a consultant with a pharmaceutical background to provide guidance in connection with the lethal injection process.
  - Conduct an exhaustive review of the current Protocol.
  - Review the current Protocol's testing requirements.
  - Establish testing guidelines for any compounded LIC with procedures for confirming that the appropriate tests are being performed.
  - Establish a procedure for storing and maintaining test results.
  - Establish a procedure for storing and maintaining LIC, including recommendations regarding suitable equipment for storage.
  - Assist with locating LIC sources and communicating pertinent information to same.
- Ensure that a copy of any current or future version of the TDOC Protocol is provided to the LIC provider.
- Evaluate the roles and outline the duties of all TDOC employees, as well as any third parties, tasked with participating in the lethal injection process.
- Consider hiring a full-time employee or retaining a consultant with a healthcare background to provide scheduled guidance and training to the Execution Team.
  - Determine whether any Execution Team members should be required to obtain any certifications and/or licenses.
- Establish a team/committee to review all relevant testing data prior to each scheduled execution to ensure that there are no deviations from the Protocol.
  - Consider incorporating deadlines to obtain testing results in sufficient time to ensure that failing LIC are not made available or used during a scheduled execution.
  - Consider annual audits to ensure compliance and to evaluate Protocol efficiencies and best practices.

Appendix

**ADDITIONAL DOCUMENTS PROVIDED/REVIEWED**

**Documents from TDOC**

1. Prescription orders for lethal drugs
2. 2017-2018 Handwritten inventory for lethal drugs
3. 11/15/2018 Inventory for lethal injection supplies
4. 12/20/2017 Inventory for lethal drugs
5. 11/1/2019 Inventory for lethal drugs
6. Research re compounding pharmacies and compounded drug products
7. 12/20/2017 Inventory for lethal drugs
8. Handwritten lethal drug inventory and storage pictures
9. 2022 Handwritten inventory for lethal drugs
10. 11/30/2020 Inventory for lethal injection supplies
11. 2018-2022 [Lab] Validation and Lab Reports for drugs
12. Handwritten notes re drug supplier status and maintenance
13. Handwritten notes re court and lethal drug storage and suppliers
14. Vendor list for Fentanyl and Midazolam manufacturers
15. Cardinal Health list of restricted products to Unqualified/incarceration facility customers
16. 4/25/2018 Letter from Alvogen rejecting use of its drugs in lethal injection
17. Handwritten notes re status of lethal drug suppliers
18. Handwritten notes re lethal drugs and suppliers
19. 12/20/2017 Fax cover from [Drug Procurer] to [Pharmacy] (no enclosure)

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20. 11/27/2017 [Pharmacy] Specialty Pharmacy, LLC Pharmacy Services Agreement
21. [Pharmacy] 2017 invoices
22. [Pharmacy] Formula Worksheets
23. 10/2018 Medical supplies purchased from Moore Medical
24. Intravenous Training documents
25. Draft Memo re project to search for new source of Pentobarbital and case
26. Compounding pharmacy search
27. Handwritten notes re compounding pharmacy
28. Research re compounded drug products
29. Research re compounding pharmacies search
30. Compounded drugs sterility, potency and endotoxin requirements and US Pharmacopeial Convention guidelines
31. Handwritten notes re lethal drugs
32. Handwritten notes re lethal drugs
33. Research re clinical pharmacology for lethal drugs
34. Research re lethal drugs
35. Research re DEA and importing controlled substances
36. List of inmates
37. 4/11/2019 Letter from Debra Inglis to Kelley Henry (federal public defender) re Johnson Affidavit re Method of Execution
38. 8/23/2019 Email from Charlotte Davis (AAG) encl Nicholas Sutton stay pleading
39. 4/20/2022 Oscar Smith Spiritual Advisor Attendance to Execution form
40. Oscar Smith movement and execution planning

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41. Litigation hold re evidence intended for Oscar Smith's execution
42. 3/16/2022 Fax from [Drug Procurer] to [Pharmacist] re John Moody (no enclosure)
43. 2017 TDOC Controlled Substance Registration Certificate
44. TDOC payments to drug suppliers
45. TDOC Lethal Injection Manual rev 7/5/2018
46. Public records requests
47. Tony Parker's Third Supplemental Response to Plaintiff's First Set of Interrogatories
48. 1/24/2019 Return receipt card from Debra Inglis to Jessica Johnson (investigator)
49. 4/4/2017 Agreed (Pharmacy) Board Order for [Pharmacist]
50. 9/1/2016 Letter from (unknown) to (unknown) re authorization to dispense prescriptions for Schedule II Controlled substances
51. 2017 Hotel invoices for [Drug Procurer]
52. Handwritten notes re condition of body after executions
53. Handwritten notes re Protocol A
54. 5/10/22 Email, Subject Fwd: Delegated Authorities for Execution Fys 18-22
55. 6/30/2022 Email, Subject RE: Documents
56. 6/23/2022 Email, Subject Fwd: Oscar Smith's Execution
57. 6/23/2022 Email, Subject {NO SUBJECT}
58. 6/23/2022 Email, Subject {NO SUBJECT}
59. 6/3/2022 Email, Subject {NO SUBJECT}
60. 6/23/2022 Email, Subject FW: Oscar Frank Smith

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61. 6/23/22 Email, Subject FW: Oscar Frank Smith
62. 6/22/22 Email, Subject Secured Document
63. 5/25/2022 Email, Subject [secure email]
64. 5/12/2022 Email, Subject [EXTERNAL] RE: documents
65. 5/12/2022 Email, Subject [EXTERNAL] RE: documents
66. 5/12/2022 Email, Subject [EXTERNAL] documents
67. 5/10/2022 Email, Subject FW: Reprieve
68. 5/2/2022 Email, Subject RE: [secure email]
69. 4/28/2022 Email, Subject Screenshot 2022-04-28 at 7.04.54 AM
70. 4/28/2022 Email, Subject Screenshot 2022-04-28 at 7.04.18 AM
71. 4/27/2022 Email, Subject Screenshot 2022-04-27 at 12.11.37 PM
72. 4/27/2022 Email, Subject Screenshot 2022-04-27 at 12:10.07 PM
73. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
74. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
75. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
76. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
77. 4/24/2022 Email, Subject FW: Privileged and Confidential - Document Request
78. 4/23/2022 Email, Subject RE: Privileged and Confidential - Document Request
79. 4/22/2022 Email, Subject [EXTERNAL] RE: testing docs
80. 4/22/2022 Email, Subject [EXTERNAL] testing docs

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81. 4/22/2022 Email, Subject RE: Privileged and Confidential - Document Request
82. 4/21/2022 Email, Subject Privileged and confidential - Document Request
83. 4/21/2022 Email, Subject Order setting date
84. 4/21/2022 Email, Subject Reprieve
85. 4/12/2022 Email, Subject RE: [EXTERNAL] RE: Order
86. 4/12/2022 Email, Subject [EXTERNAL] RE: Order
87. 4/12/2022 Email, Subject [EXTERNAL] RE: Order
88. 4/10/2022 Email, Subject Rimmer Letter
89. 4/8/2022 Email, Subject [secure email]
90. 4/7/2022 Email, Subject [secure email]
91. 4/6/2022 Email, Subject [EXTERNAL] RE: Order
92. 3/16/2022 Email, Subject [EXTERNAL] RE: Order
93. 3/16/2022 Email, Subject [EXTERNAL] RE: Order
94. 3/16/2022 Email, Subject Order
95. 3/11/2022 Email, Subject RE: Secured Documents
96. 3/10/2022 Email, Subject RE: Secured Documents
97. 3/10/2022 Email, Subject Secured Documents
98. 2/24/2022 Email, Subject FW: 00218364 SUTTON, GARY W. order setting execution date
99. 2/10/2022 Email, Subject Training Docs
100. 1/13/2022 Email, Subject Documentation (special)
101. 1/4/2022 Email, Subject [EXTERNAL] FW: Invoice 20211130TN from [Pharmacy] Specialty Pharmacy LLC
102. 11/29/2021 Email, Subject RE: [EXTERNAL] RE: Order

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103. 11/24/2021 Email, Subject RE: [EXTERNAL] RE: Order
104. 11/22/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
105. 11/1/2021 Email, Subject RE: Docs
106. 11/19/2021 Email, Subject RE: Docs
107. 11/18/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
108. 11/17/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
109. 11/9/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
110. 11/9/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
111. 11/9/2021 Email, Subject Further Discovery
112. 11/5/2021 Email, Subject RE: [EXTERNAL] RE: Order
113. 11/5/2021 Email, Subject Re: [EXTERNAL] RE: Order
114. 11/5/2021 Email, Subject [EXTERNAL] RE: Order
115. 11/5/2021 Email, Subject FW: Rimmer 110874 Order
116. 11/5/2021 Email, Subject Order
117. 11/5/2021 Email, Subject FW: [EXTERNAL] Court News: Supreme Court Sets Two Execution Dates
118. 11/4/2021 Email, Subject RE: Products
119. 11/2/2021 Email, Subject RE: Products
120. 11/2/2021 Email, Subject RE: Products
121. 11/2/2021 Email, Subject RE: Products
122. 10/29/2021 Email, Subject Products
123. 10/15/2021 Email, Subject Training Documents for October
124. 10/12/2021 Email, Subject [EXTERNAL] RE: Discovery Request

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125. 10/12/2021 Email, Subject Discovery Request
126. 9/29/2021 Email, Subject Re: [EXTERNAL] RE: Order
127. 9/29/2021 Email, Subject [EXTERNAL] RE: order
128. 9/29/2021 Email, Subject [EXTERNAL] FW:
129. 9/29/2021 Email, Subject [EXTERNAL] RE: Invoice 20210901 TN from [Pharmacy] Specialty Pharmacy LLC
130. 9/29/2021 Email, Subject RE: Invoice 20210901 TN from [Pharmacy] Specialty Pharmacy LLC
131. 9/23/2021 Email, Subject Documents from this month
132. 9/23/2021 Email, Subject Training documents
133. 9/20/2021 Email, Subject [EXTERNAL] RE: Twoish Things
134. 9/20/2021 Email, Subject [EXTERNAL] RE: Twoish Things
135. 9/20/2021 Email, Subject Fwd: Twoish Things
136. 9/17/2021 Email, Subject [EXTERNAL] RE: kci inventory
137. 9/17/2021 Email, Subject RE: kci inventory
138. 9/17/2021 Email, Subject RE: kci inventory
139. 9/17/2021 Email, Subject [EXTERNAL] kci inventory
140. 9/17/2021 Email, Subject [EXTERNAL] RE: midazolam inventory
141. 9/17/2021 Email, Subject RE: midazolam inventory
142. 9/17/2021 Email, Subject [EXTERNAL] midazolam inventory
143. 9/16/2021 Email, Subject [EXTERNAL] FW: Invoice 20210901TN from [Pharmacy] Specialty Pharmacy LLC
144. 9/16/2021 Email, Subject [EXTERNAL] FW: Invoice 20210906AF from [Pharmacy] Specialty Pharmacy LLC
145. 9/15/2021 Email, Subject RE: Thursday

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146. 9/15/2021 Email, Subject Thursday
147. 7/28/2021 Email, Subject [EXTERNAL] RE: Discovery Items
148. 7/26/2021 Email, Subject [EXTERNAL] RE: Deposition
149. 7/15/2021 Email, Subject RE: [EXTERNAL] travel logistics
150. 7/15/2021 Email, Subject RE: [EXTERNAL] travel logistics
151. 7/15/2021 Email, Subject [EXTERNAL] travel logistics
152. 7/15/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
153. 7/9/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
154. 7/9/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
155. 7/6/2021 Email, Subject [EXTERNAL] RE: AVAILABILITY
156. 7/6/2021 Email, Subject RE: Training logs
157. 7/6/2021 Email, Subject [EXTERNAL] RE: AVAILABILITY
158. 7/6/2021 Email, Subject [EXTERNAL] FW: AVAILABILITY
159. 7/1/2021 Email, Subject Letter from Federal Public Defenders Office
160. 6/22/2021 Email, Subject [EXTERNAL] AVAILABILITY
161. 6/4/2021 Email, Subject Updated document
162. 6/2/2021 Email, Subject Re: 2 of 2
163. 6/2/2021 Email, Subject 2 of 2
164. 6/2/2021 Email, Subject 1 of 2
165. 4/14/2021 Email, Subject confidential documents
166. 4/12/2021 Email, Subject confidential documents
167. 3/1/2021 Email, Subject Confidential
168. 1/26/2021 Email, Subject [EXTERNAL] Fw: Invoice TN20210126 from [Pharmacy] Pharmacy LLC

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- 169. 1/14/2021 Email, Subject RE: Training Rosters
- 170. 1/13/2021 Email, Subject Additional rosters from today
- 171. 11/18/2020 Email, Subject [EXTERNAL] Fw: Invoice TN20200511 from [Pharmacy] Specialty Pharmacy LLC
- 172. 9/24/2020 Email, Subject FW: Letter from VP Witmer w/B. Braun Medical
- 173. 9/24/2020 Email, Subject FW: Letter from General Counsel Wohlfeil w/Meitheal Pharmaceuticals
- 174. 9/14/2020 Email, Subject Fwd: Letter from VP McDonnel w/Sandoz, Inc.
- 175. 8/18/2020 Email, Subject RE: Request
- 176. 8/13/2020 Email, Subject [EXTERNAL] requested info
- 177. 8/12/2020 Email, Subject {NO SUBJECT}
- 178. 7/28/2020 Email, Subject [EXTERNAL] Fw: Invoice TN202000728 from [Pharmacy] Specialty Pharmacy LLC
- 179. 7/22/2020 Email, Subject [EXTERNAL] potency
- 180. 4/15/2020 Email, Subject [EXTERNAL] February invoice
- 181. 12/20/2019 Email, Subject [EXTERNAL] New Invoice
- 182. 12/19/2019 Email, Subject FW: Question
- 183. 12/9/2019 Email, Subject [EXTERNAL] New Invoice
- 184. 12/5/2019 Email, Subject [EXTERNAL] Report
- 185. 11/26/2019 Email, Subject [EXTERNAL] Lab results
- 186. 11/21/2019 Email, Subject [EXTERNAL] Alternatives
- 187. 11/20/2019 Email, Subject [EXTERNAL] see attached
- 188. 10/30/2019 Email, Subject [EXTERNAL] RE: API
- 189. 9/19/2019 Email, Subject [EXTERNAL] Invoices

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190. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf
191. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf
192. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf
193. 8/9/2019 Email, Subject [EXTERNAL] results
194. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test
195. 8/8/2019 Email, Subject [EXTERNAL] KCI
196. 8/8/2019 Email, Subject [EXTERNAL] RE: kci protocol
197. 8/7/2019 Email, Subject [EXTERNAL] Invoice
198. 7/31/2019 Email, Subject [EXTERNAL] Report
199. 7/29/2019 Email, Subject [EXTERNAL] RE: Declaration
200. 7/26/2019 Email, Subject RE: Declaration
201. 7/24/2019 Email, Subject [EXTERNAL] Report
202. 7/10/2019 Email, Subject RX
203. 7/2/2019 Email, Subject [EXTERNAL] FW: kci protocol
204. 6/26/2019 Email, Subject kci protocol
205. 6/26/2019 Email, Subject Proposed Alternative
206. 6/26/2019 Email, Subject [EXTERNAL] <http://lcucadiapharma.com/anti-capital-punishment-statement/>
207. 6/26/2019 Email, Subject KCI
208. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol
209. 5/13/2019 Email, Subject FW: Midazolam
210. 5/13/2019 Email, Subject RE: Invoice Check

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- 211. 5/9/2019 Email, Subject RE: Invoices
- 212. 5/9/2019 Email, Subject Invoices
- 213. 5/9/2019 Email, Subject report
- 214. 4/29/2019 Email, Subject Potency report
- 215. 4/2/2019 Email, Subject follow up
- 216. 2/26/2019 Email, Subject New Invoice
- 217. 2/14/2019 Email, Subject RE: Summary of Invoices
- 218. 11/7/2018 Email, Subject RE: Payments [secure email]
- 219. 11/6/2018 Email, Subject Open Invoices
- 220. 11/2/2018 Email, Subject Invoice
- 221. 10/31/2018 Email, Subject Invoice
- 222. 10/10/2018 Email, Subject Final Report
- 223. 8/27/2018 Email, Subject Our friend Wally
- 224. 8/24/2018 Email, Subject Fwd: Tennessee License
- 225. 8/23/2018 Email, Subject Fwd:
- 226. 8/16/2018 Email, Subject TN81618
- 227. 8/15/2018 Email, Subject Invoice
- 228. 8/8/2018 Email, Subject Log
- 229. 8/6/2018 Email, Subject USP 71
- 230. 7/25/2018 Email, Subject updated invoice
- 231. 7/23/2018 Email, Subject Shipping SOP
- 232. 7/18/2018 Email, Subject RE: sample RX
- 233. 7/17/2018 Email, Subject sample Rx

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- 234. 7/16/2018 Email, Subject Protocol
- 235. 7/15/2018 Email, Subject Fwd: Certificates
- 236. 7/12/2018 Email, Subject Testing report
- 237. 7/9/2018 Email, Subject RE: Invoices
- 238. 7/9/2018 Email, Subject Invoices
- 239. 7/9/2018 Email, Subject {NO SUBJECT}
- 240. 7/5/2018 Email, Subject Invoice
- 241. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision\_60062  
[Pharmacy] Specialty Pharmacy
- 242. 6/22/2018 Email, Subject {NO SUBJECT}
- 243. 6/20/2018 Email, Subject Product Inquiry
- 244. 4/5/2018 Email, Subject FW: Invoices
- 245. 1/22/2018 Email, Subject List of restricted drugs
- 246. 4/9/2018 Vendor Letter
- 247. 12/4/2017 TX Case Order
- 248. 5/6/2020 TPRA Final Response Letter General
- 249. 1/10/2017 TN DEA Lic
- 250. Summary re draft of information re TDOC's search for Pentobarbital
- 251. 10/18/2019 *Roane v. Gonzales*\_Govt's Response to Motion for Preliminary Injunction
- 252. 4/9/2018 Removal of Vendor Information Request
- 253. 2017 Receipts – [Drug Procurer]'s hotel invoices
- 254. Motion Responses - Word document providing responses to questions
- 255. 4/9/2018 Email, Subject FW: Removal of Vendor Information Request

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- 256. 2018-2019 Electric chair testing logs
- 257. Draft Bill on election timeframe
- 258. 9/1/2017 Death Row Report
- 259. 7/1/2017 Delegated Authority for Tennessee's execution related services
- 260. 9/1/2017 D.R. Offenders with Execution Date
- 261. 9/1/2017 D.R. Offender Demographics
- 262. 9/1/2017 D.R. by Offender TOMIS ID
- 263. 9/1/2017 D.R. by Offender Last Name
- 264. CONSULTANT SERVICES AGREEMENT
- 265. CentralPharmacyLicense5661
- 266. 4/13/2022 handwritten inventory log of lethal drugs
- 267. 4/21/20.22 handwritten inventory log of lethal drugs
- 268. 9/7/2017 Email, Subject Updtac
- 269. 12/4/2017 Email confirming vecuronium is the only chemical requiring reconstitution
- 270. 9/6/2017 Email, Subject Touch Base
- 271. 9/21/2017 Email, Subject Status Update
- 272. 8/30/2021 Letter from Sandoz
- 273. 12/5/2017 Redacted email discussing supplier for lethal drugs
- 274. 9/7/2017 Email, Subject RE: "Updtac"
- 275. 9/7/2017 Email, Subject RE: "Updtac"
- 276. 9/7/2017 Email, Subject RE: "Updtac"
- 277. 10/26/2017 Email, Subject RE: Additional Info

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- 278. 9/20/2017 Email, Subject Is there a good time for me to give you a buzz today? Thanks
- 279. 9/21/2017 Email, Subject Fwd: Status Update
- 280. 6/18/2018 Letter from Fresenius Kabi USA, LLC
- 281. 1/22/2018 PDF of emails
- 282. 2017 PDF of emails and attachments
- 283. 2017 PDF of emails and attachments
- 284. 6/18/2018 Letter from Athenex
- 285. 2018, 2019, 2020 and 2022 lab reports for lethal drugs
- 286. Draft of Midazolam storage and preparation instructions with comment from [Drug Procurer]
- 287. Blank Pharmacy Services Agreement form in notepad
- 288. 7/23/2018 Letter to Billy Ray Irick from Tony Mays notifying of execution date and method
- 289. Potassium Chloride preparation instructions
- 290. Execution Procedures for Lethal Injection, rev 7/11/2016
- 291. Execution Procedures for Lethal Injection in notepad
- 292. Execution Procedures for Lethal Injection, rev 6/25/2015
- 293. 12/11/2017 Email, Subject FW: Lemaricus Davidson (#328954) Order Granting Stay of Execution
- 294. Execution Procedures for Electrocution, rev 7/11/2016
- 295. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
- 296. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
- 297. Blank Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution

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298. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
299. Handwritten inventory logs of lethal drugs from 7/27/2018 – 8/14/2019
300. Handwritten inventory logs of lethal drugs from 5/15/2019 – 8/14/2019
301. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 1/8/2018
302. Draft Execution Procedures for Electrocution, rev 6/26/2014
303. Draft Execution Procedures for Electrocution, rev 6/26/2014
304. Draft Execution Procedures for Electrocution, rev 6/26/2014
305. Execution Procedures for Electrocution, rev 3/13/2017
306. Redacted Execution Procedures for Electrocution, rev 3/13/2017
307. Execution Procedures for Lethal Injection, rev 9/22/2014
308. Execution Procedures for Lethal Injection, rev 9/22/2014
309. Execution Procedures for Lethal Injection, rev 9/18/2014
310. Execution Procedures for Lethal Injection, rev 9/18/2014
311. Execution Procedures for Lethal Injection
312. Execution Procedures for Lethal Injection
313. Redacted Execution Procedures for Electrocution
314. Draft Execution Procedures for Electrocution, rev 6/26/2014
315. Draft Execution Procedures for Electrocution, rev 6/26/2014
316. Draft Execution Procedures for Electrocution
317. Draft Execution Procedures for Electrocution
318. Draft Execution Procedures for Electrocution
319. Draft Execution Procedures for Electrocution

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320. Draft of amendment to TCA 40-23-114 - relative to election of the method of execution
321. Draft of amendment to TCA 40-23-114 - relative to election of the method of execution
322. PDF of Draft of amendment to TCA 40-23-114 with notes - relative to election of the method of execution with the Warden's primary role and Affidavit Concerning Method of Execution from TDOC's Execution Procedures for Lethal Injection
323. 11/15/2018 Order for supplies
324. 11/3/2020 Order for supplies
325. 3/1/2022 Email, Subject RE: 3680\_001.pdf
326. Orders setting execution dates for Donald Ray Middlebrooks, Gary Wayne Sutton and Byron Lewis Black
327. 12/11/2019 Order Denying Motion and Order Staying execution re Abu Ali AbdurRahman
328. 11/16/2018 Order setting execution date re Abu Ali AbdurRahman
329. 7/1/2019 Order setting execution date re Abu Ali AbdurRahman
330. Orders setting execution dates and sealed order for transport re Byron Lewis Black
331. 2/24/2020 Order setting execution date re Byron Lewis Black
332. 11/1/2019 Potassium Chloride and Midazolam prescriptions for Leroy Hall
333. 11/5/2019 Letter to Lee Hall from Tony Mays notifying of execution date and method
334. 9/26/2019 Letter from Kelly A. Gleason to Debra Inglis and Tony Mays requesting to be present when method of execution is presented to Hall
335. 11/1/2019 Lidocaine HCL 2% prescription for Leroy Hall
336. Visit logs, outlook scheduled meetings for visits, Special Visit Requests, Request and Affidavit re disposition of belongings, personal property

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- inventories and letters re presence at execution on 12/5/2019 for Lee Hall (53 pages)
337. Redacted TDOC Incident Report, Execution Recorder Checklist, Death row watch logs and Record of staff visits for Lee Hall (51 pages)
  338. Unredacted TDOC Incident Report, Execution Recorder Checklist, Death row watch logs and Record of staff visits for Lee Hall (51 pages)
  339. 11/16/2018 Order setting execution date for Lee Hall
  340. 7/10/2018 Amended Order setting execution date for Billy Ray Irick
  341. 8/8/2018 Response to Motion for Leave to Serve Subpoena Duces Tecum Instantly re Billy Ray Irick
  342. 7/18/2018 Prescription for Midazolam for Billy Ray Irick
  343. 7/23/2018 Letter to Billy Ray Irick from Tony Mays notifying of execution date and method
  344. 5/22/2018 Lab report for Midazolam suitability re Billy Ray Irick
  345. 7/24/2018 Letter to Tennessee Attorney General and Billy Ray Irick's attorneys enclosing the 7/23/2018 execution notification letter
  346. 8/6/2018 Lab report for Midazolam sterility re Billy Ray Irick
  347. 8/6/2018 Order denying Billy Ray Irick's motion to vacate execution date
  348. Dissent to 8/6/2018 Order
  349. Tennessee's Brief in Opposition to Billy Ray Irick's application for stay of execution
  350. Tennessee's Response to Billy Ray Irick's Petition for Writ of Habeas Corpus and Application for a stay of execution
  351. 5/25/2018 Lab report for Midazolam potency, endotoxins and sterility re Billy Ray Irick
  352. 5/14/2018 Lab report for Midazolam container closure integrity re Billy Ray Irick
  353. 8/6/2018 Gov. Haslam's statement that clemency not appropriate for Billy Ray Irick

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- 354. 4/11/2019 Letter from Debra Inglis to Kelley J. Henry re presenting the Affidavit re Method of Execution and notification letter to Donnie Johnson
- 355. 5/9/2019 Lab report for Midazolam potency and sterility re Donnie Johnson
- 356. 4/17/2019 Midazolam prescription for Donnie Johnson
- 357. 5/1/2019 Letter to Donnie Johnson from Tony Mays notifying of execution date and method
- 358. 4/11/2019 Letter from Debra Inglis to Kelley J. Henry re presenting the Affidavit re Method of Execution and notification letter to Donnie Johnson
- 359. 4/26/2019 Lab report for Midazolam potency re Donnie Johnson
- 360. 11/16/2018 Order setting execution date re Donnie Johnson
- 361. 4/16/2019 Letter to Donnie Johnson from Tony Mays notifying of execution date and method
- 362. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election
- 363. 11/9/2018 Letter to Stephen Kissinger from [Drug Procurer] in response to correspondence
- 364. 11/16/2018 Midazolam prescription for David Miller
- 365. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election
- 366. 11/21/2018 Letter to David Miller from Tony Mays notifying of method of execution by lethal injection due to waiver not being provided by deadline
- 367. 3/15/2018 Order granting amicus brief and denying Tennessee's Motion to set an execution date prior to 6/1/2018 re David Miller
- 368. 3/15/2018 Order setting execution date for David Miller
- 369. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election

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- 370. 11/6/2018 Letter to Stephen Kissinger from Tony Mays enclosing Affidavit Concerning Method of Execution for lethal injection waiver to be presented to David Miller
- 371. 11/16/2018 Midazolam prescription for David Miller
- 372. Blank Affidavit to Select Defense Counsel Witness to Execution
- 373. 11/27/2018 signed and completed Affidavit to Select Defense Counsel Witness to Execution re David Miller and 11/27/2018 Letter from Tony Mays to David Miller and Kissinger acknowledging receipt of Miller's election waiving lethal injection and notifying that Miller will be executed via electrocution.
- 374. Copy of envelope to Tony Mays from David Miller
- 375. 11/23/2018 Handwritten note from David Miller waiving lethal injection and electing electrocution
- 376. 11/8/2018 Letter to Tony Mays from Stephen Kissinger requesting information re David Miller
- 377. 12/9/2019 Potassium Chloride and Midazolam prescription for Sutton
- 378. 2/4/2020 Letter to Nicholas Sutton from Tony Mays notifying of execution date and method, Sutton waived lethal injection
- 379. 2/4/2020 Letter to Nicholas Sutton from Tony Mays notifying of execution date and method via execution
- 380. 1/21/2020 Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution re Nicholas Sutton
- 381. 2/3/2020 Email, Subject Fwd: Sutton Update
- 382. Day of Execution - Electrocution Execution Recorder Checklist for Nicholas Sutton (11 pages)
- 383. Death watch logs for Nicholas Sutton (40 pages)
- 384. Letters notifying individuals of selection to witness the execution, correspondence to Nicholas Sutton's attorney, correspondence regarding attending execution, Inmate Inquiry form, Inventories of property, notification letter, Affidavit Concerning Method of Execution, Cremation form, Volunteer Application and certification for reverend, Outlook

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scheduled meetings with visitors, Visit request forms, Release form and Staff visit logs re Nicholas Sutton (81 pages)

385. 11/16/2018 Order for execution for Nicholas Sutton
386. Letter to Stephen West from Tony Mays notifying of execution date and method
387. 5/4/2019 Email, Subject RE: contact information – re Stephen West
388. 7/12/2019 Potassium Chloride and Midazolam prescription for Stephen West
389. 7/15/2019 Letter to Stephen West from Tony Mays notifying of execution date and method
390. 7/18/2019 Lab report for Midazolam potency re Stephen West
391. 7/30/2019 Lab report for Midazolam sterility and potency re Stephen West
392. 7/15/2019 Affidavit to Select Defense Counsel Witness to Execution and Affidavit Concerning Method of Execution re Stephen West
393. 7/12/2019 Potassium Chloride and Midazolam prescription for Stephen West
394. 7/17/2019 Lab report for potassium chloride potency re Stephen West
395. Redacted Letters notifying individuals of selection to witness the execution, correspondence to Stephen West's attorney, Outlook scheduled meetings with visitors, correspondence regarding attending execution and inventory of personal belongings re Stephen West (66 pages)
396. Letters notifying individuals of selection to witness the execution, correspondence to Stephen West's attorney, Outlook scheduled meetings with visitors, correspondence regarding attending execution and inventory of personal belongings re Stephen West (66 pages)
397. Redacted TDOC Incident Report, Day of Execution - Electrocution Execution Recorder Checklist and Staff visit logs re Stephen West (22 pages)
398. TDOC Incident Report, Day of Execution - Electrocution Execution Recorder Checklist and Staff visit logs re Stephen West (22 pages)
399. Redacted Death watch logs for Stephen West (42 pages)

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400. Death watch logs for Stephen West (42 pages)
401. 11/16/2018 Order for execution for Stephen West
402. 8/6/2019 Sixth Circuit order affirming district court's order and denying Stephen West's motion for a stay of execution
403. 11/16/2018 Order for execution for Charles Wright
404. 10/22/2018 Order for execution for Edmund Zagorski
405. 10/11/2018 Reprieve from Gov. Haslam until 10/21/2018 for Edmund Zagorski
406. 9/11/2018 Email, Subject Zagorski forms
407. Excel spreadsheet of Midazolam test results for sterility and potency for Edmund Zagorski
408. 9/27/2018 Letter to Edmund Zagorski from Tony Mays notifying of execution date and method
409. 10/9/2018 Letter to Kelley Henry from Debra Inglis advising Affidavit ineffective and execution will proceed by lethal injection re Edmund Zagorski
410. 10/9/2018 Letter to Kelley Henry from Debra Inglis advising Affidavit ineffective and execution will proceed by lethal injection re Edmund Zagorski
411. 10/10/2018 Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order re Edmund Zagorski
412. 9/21/2018 Midazolam prescription for Edmund Zagorski
413. 10/24/2018 Midazolam prescription for Edmund Zagorski
414. 10/24/2018 Midazolam prescription for Edmund Zagorski
415. PDF of TCA Sec 39-16-201, policies and procedures for visits, visitation application and forms, highlights re electronic devices
416. PDF of TCA Sec 39-16-201, policies and procedures for visits, visitation application and forms

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- 417. 9/27/2018 Letter to Edmund Zagorski from Tony Mays notifying of execution date and method
- 418. 9/24/2018 Lab report for Midazolam potency re Edmund Zagorski
- 419. 8/30/2018 Letter from Kelley Henry re request for Edmund Zagorski not to be presented with an Affidavit Concerning Method of Execution
- 420. 10/8/2018 Lab report for Midazolam sterility and potency re Edmund Zagorski
- 421. 9/27/2018 Affidavit Concerning Method of Execution re Edmund Zagorski
- 422. TDOC policies and procedures re Attorney Access to Inmates and blank release
- 423. 7/22/2020 Email, Subject [EXTERNAL] potency – re Harold Wayne Nichols
- 424. 7/1/2020 Potassium chloride and midazolam prescriptions for Harold Wayne Nichols
- 425. 7/2/2020 Letter to Harold Wayne Nichols from Tony Mays notifying of execution date and method with waiver election
- 426. 1/15/2020 order setting execution for Harold Wayne Nichols
- 427. 11/3/2021 order setting execution for Harold Wayne Nichols
- 428. 11/3/2020 Potassium chloride and Midazolam prescriptions for Pervis Payne
- 429. 11/3/2020 Letter to Pervis Payne from Tony Mays notifying of execution date and method with waiver election, Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution
- 430. 11/3/2020 Letter to Pervis Payne from Tony Mays notifying of execution date and method with waiver election
- 431. 2/24/2020 Order setting execution for Pervis Payne
- 432. 4/11/2020 Letter to Michael Rimmer from Tony Mays notifying of execution date and method with waiver election
- 433. 4/16/2021 Judgment affirming conviction and sentence and appeal documents re Michael Rimmer

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- 434. 3/16/2022 Potassium Chloride and Midazolam prescriptions for Oscar Smith
- 435. 3/16/2022 Potassium Chloride and Midazolam signed prescriptions for Oscar Smith
- 436. 12/21/2020 Letter from Amy Harwell to Tony Mays re Oscar Smith's objection to signing the Affidavit Regarding Method of Execution
- 437. 1/5/2021 Order staying Oscar Smith's execution date due to COVID-19
- 438. 3/21/2022 Letter to Oscar Smith from Tony Mays notifying of execution date and method with waiver election
- 439. Inventory of items preserved from 4/21/2022 execution preparation and chemical preparation forms re Oscar Smith
- 440. 4/20/2022 Lab reports of Midazolam sterility and potency re Oscar Smith
- 441. 3/31/2022 Lab report of potassium chloride potency re Oscar Smith
- 442. 3/31/2022 Lab report of potassium chloride sterility re Oscar Smith
- 443. 4/20/2022 Non-Disclosure Agreement, Spiritual Advisor Attendance to Execution of Death Sentence re Oscar Smith
- 444. 1/15/2020 order setting execution date for Oscar Smith
- 445. 4/17/2020 order setting execution date for Oscar Smith
- 446. Orders setting execution dates re Oscar Smith
- 447. *Workman v Bredesen* case, 486 F.3d 896 (2007)
- 448. Opinion affirming trial court's judgment, trial court did not err in dismissing Plaintiff's claims (3/28/2017) re Stephen West
- 449. *West v Schofield* case, 460 S.W.3d 113 (2015)
- 450. Ohio Execution Protocol Litigation - Opinion affirming district court's granting of preliminary injunction enjoining Ohio's execution of 3 inmates to allow further litigation re midazolam's efficacy before Ohio executes 3 inmates (4/6/2017)

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451. Ohio Execution Protocol Litigation - Opinion affirming district court's denial of Hennessy's request to stay his execution (9/11/2019)
452. *Heckler v Chaney* case, 470 U.S. 821 (1985)
453. *Glossip v Gross* Resp Brief, Oklahoma's brief re whether a 3-drug lethal injection protocol creates a substantial risk of severe pain due to Midazolam use as first drug (4/8/2015)
454. *Glossip v Gross* case, 135 S.Ct. 2726 (2015)
455. *Cook v Food and Drug Administration* case, 733 F.3d 1 (2013)
456. *Bray v Lombardi* case, 2017 WL 574909 (2/14/2017)
457. *AbdurRahman v Bredesen* case, 181 S.W.3d 292 (10.17.2005)
458. Method of Execution Act of 2015, A.C.A. Sect 5-4-617 - re Arkansas law
459. 6/4/2018 Email, Subject FW: Shults, No. CV-17-544 – re Arkansas law
460. 3/29/2018 - Wood Concurring Dissenting Opinion - Arkansas Supreme Court dissent from majority's conclusion that the identity of drug manufacturers is not protected under the confidentiality provisions of the Method of Execution Act
461. 3/29/2018 - Majority Opinion - Arkansas Supreme Court opinion finding that the identity of drug manufacturers is not protected under the confidentiality provisions of the Method of Execution Act
462. 3/29/2018 - Kemp Concurring Dissenting Opinion - Arkansas Supreme Court opinion concurring in part and dissenting in part to majority's opinion
463. April 2017 redacted text messages re acquiring lethal drugs produced in *Abdur Rahman v. Parker* – Chancery Court proceedings
464. 6/5/2018 Deposition transcript of Tony Parker in *Abdur Rahman v. Parker* – Chancery Court proceedings
465. 6/4/2018 Deposition transcript of Tony Mays in *Abdur Rahman v. Parker* – Chancery Court proceedings
466. 7/7/2018 Plaintiffs' Response to Motion for Protective Order in *Abdur Rahman v. Parker* – Chancery Court proceedings

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- 467. 8/13/2017 Redacted TDOC Lethal Injection Update PowerPoint presentation advising on the current death row inmates, laws re executions and efforts made to procure chemical to compound lethal drugs for executions produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 468. 2/20/2018 Plaintiffs' First Set of Interrogatories to Defendants in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 469. 2/20/2018 Plaintiffs' First Request for Production of Documents in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 470. Redacted April and July 2017 emails re procuring Pentobarbital produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 471. Picture of the first page of article "Using pain to assess neurologic response" produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 472. 5/7/2018 Order Granting in Part and Denying in Part Plaintiffs' Motion to Compel in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 473. 6/29/2018 Memorandum and Order Granting in Part and Denying in Part Plaintiffs' Motion to Amend in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 474. 5/24/2018 Memorandum and Order Denying Motion for Protective Order Seeking to Quash Parker and Mays Depositions But Issuing Limitations on Time and Scope of Depositions; and Additional Orders on Deadlines on Expert Disclosures and Defendants' Summary Judgment Filing in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 475. 7/3/2018 Orders: (1) Denying Plaintiffs' 7/2/2018 Motion to Reconsider; (2) Permitting Offer of Proof at Trial; and (3) Denying Defendants' Motion to Strike Second Amended Complaint and Submit Corrected Version in Accordance with the Court's Order in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 476. 6/25/2018 Notice of Filing Exhibit in Support of Plaintiffs' Motion and Memorandum of Law Regarding Defendants New Unwritten Protocol Using Compounded High Risk Sterile Injectables Under Seal in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 477. 6/11/2018 Notice of Filing (Deposition of Commissioner Parker and Warden Mays) in *Adbur Rahman v. Parker* – Chancery Court proceedings

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478. Redacted handwritten notes re procuring Pentobarbital produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
479. 5/4/2018 Memorandum and Order Granting in Part and Denying in Part Defendants' Motion to Dismiss in *Adbur Rahman v. Parker* – Chancery Court proceedings
480. 5/29/2018 Defendants' Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
481. September 2017 redacted emails re ordering Midazolam, Vecuronium and Potassium Chloride for a 3-drug protocol produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
482. 6/25/2018 Plaintiffs' Motion and Memorandum of Law Regarding Defendants New Unwritten Protocol Using Compounded High-Risk Sterile Injectables filed in *Adbur Rahman v. Parker* – Chancery Court proceedings
483. Draft of Defendants Answer to the Amended Petition for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
484. Drafts of language for request for admissions in *Adbur Rahman v. Parker* – Chancery Court proceedings
485. 6/2/2018 Email, Subject Fw: Plaintiffs Motion to Compel Deposition Testimony re *Adbur Rahman v. Parker* – Chancery Court proceedings
486. 5/29/2018 Defendants' Statement of Undisputed Material Facts in Support of Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
487. 5/29/2018 Defendants' Memorandum of Law in Support of Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
488. Draft of Defendants' Answer to Amended Complaint with redlines in *Adbur Rahman v. Parker* – Chancery Court proceedings
489. 3/29/2018 Defendants' Motion to Compel Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
490. 3/29/2018 Memorandum of Law in Support of Motion to Dismiss Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings

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491. 6/21/2018 Deposition transcript of Debbie Inglis in *Adbur Rahman v. Parker* – Chancery Court proceedings
492. 2/20/2018 Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
493. 5/8/2018 Defendants' Answer to Amended Complaint in *Adbur Rahman v. Parker* – Chancery Court proceedings
494. Draft of proposed answers to Plaintiffs' amended complaint in *Adbur Rahman v. Parker* – Chancery Court proceedings
495. Amended Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
496. 6/13/2018 Memorandum and Orders on: (1) Plaintiffs' Motion to Compel; (2) Plaintiffs' Notice to Extend Summary Judgment Response time; (3) Altering and Amending 6/12/2018 Memorandum and Orders; and (4) 6/20/2018 Telephone Conference in *Adbur Rahman v. Parker* – Chancery Court proceedings
497. 7/17/2018 Memorandum and Order Regulating (Pursuant to Tenn. Code Ann. § 10-7-504(h)) Plaintiffs' Offer of Proof in *Adbur Rahman v. Parker* – Chancery Court proceedings
498. 7/26/2018 Order Dismissing With Prejudice Plaintiffs' Challenge to Tennessee Lethal Injection Protocol and Memorandum of Findings of Fact and Conclusions of Law in *Adbur Rahman v. Parker* – Chancery Court proceedings
499. 5/14/2018 Issued Subpoenas to take the depositions of Debbie Inglis and [Drug Procurer] in *Adbur Rahman v. Parker* – Chancery Court proceedings
500. USP 38 - Compounding for Animal Patients produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
501. January 2018 FDA Compounding Guidance - Compounded Drug Products That are Essentially Copies of a Commercially Available Drug Product Under Section 503A of the Federal Food, Drug, and Cosmetic Act produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
502. 6/25/2018 Email re search to procure Pentobarbital and April 2017 text messages re acquiring lethal drugs produced in *Adbur Rahman v. Parker* – Chancery Court proceedings

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503. Redacted training rosters for electrocution, lethal injection, Practice, protocol review/training and training materials produced in in *Adbur Rahman v. Parker* – Chancery Court proceedings
504. Redacted IV training results and certificates of completion, redacted training rosters for execution, protocol review/training, Death Watch, Practice, Training, electrocution, lethal injection and training materials produced in in *Adbur Rahman v. Parker* – Chancery Court proceedings
505. 7/30/2018 filed Plaintiffs Notice of Appeal in in *Adbur Rahman v. Parker* – Chancery Court proceedings
506. 7/30/2018 Motion to Vacate Execution Date for Billy Ray Irick
507. 8/6/2018 Order Denying the Motion to Vacate Execution Date for Billy Ray Irick
508. 8/6/2018 Dissenting Order to majority's opinion
509. 7/30/2018 Motion to Proceed In Forma Pauperis
510. Picture of thermometer reading in *King v. Parker* – Middle District of Tennessee proceedings
511. 6/24/2019 email from Scott Sutherland to Inglis and [Drug Procurer] enclosing the Amended Complaint and requesting information in *King v. Parker* – Middle District of Tennessee proceedings
512. Draft of a declaration from TDOC Employee in *King v. Parker* – Middle District of Tennessee proceedings
513. Declaration from President of Pharmacy 7, signed 7/29/2019 in *King v. Parker* – Middle District of Tennessee proceedings
514. Draft of Declaration from President of Pharmacy Z in *King v. Parker* – Middle District of Tennessee proceedings
515. Declaration from RMSI Officer signed 7/30/2019 in *King v. Parker* – Middle District of Tennessee proceedings
516. Draft of Declaration from RMSI Officer in *King v. Parker* – Middle District of Tennessee proceedings
517. Draft of Declaration from RMSI Mental Health Professional in in *King v. Parker* – Middle District of Tennessee proceedings

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518. Draft of Declaration from RMSI Employee in *King v. Parker* – Middle District of Tennessee proceedings
519. Draft of Tony Parker's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
520. Draft of Tony May's Answer to Complaint with comments from [Drug Procurer] in *King v. Parker* – Middle District of Tennessee proceedings
521. Declaration from RMSI Mental Health Professional signed 7/29/2019 in *King v. Parker* – Middle District of Tennessee proceedings
522. 9/7/2017 emails regarding procuring lethal drugs, possible insufficiency of Midazolam as an analgesic produced in *King v. Parker* – Middle District of Tennessee proceedings
523. Redacted handwritten notes re procuring Pentobarbital in *King v. Parker* – Middle District of Tennessee proceedings
524. 8/13/2017 TDOC Lethal Injection Update PowerPoint presentation advising on the current death row inmates, laws re executions and efforts made to procure chemical to compound lethal drugs for executions produced in *King v. Parker* – Middle District of Tennessee proceedings
525. Spreadsheet re TDOC employee's involvement with procuring the lethal drugs and discoverable records in *King v. Parker* – Middle District of Tennessee proceedings
526. 1/25/2019 Amended Complaint for Injunctive Relief in *King v. Parker* – Middle District of Tennessee proceedings
527. 7/5/2019 Tony May's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
528. 7/5/2019 Tony Parker's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
529. 2/11/2020 and 8/4/2020 redacted lethal injection chemical ledgers produced in *King v. Parker* – Middle District of Tennessee proceedings
530. 12/20/2019, 2/11/2020 and 7/28/2020 redacted Lethal injection chemical Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

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531. Redacted lethal drug prescriptions for Irick, Zagorski, Miller, Johnson, West, Hall, Sutton and Nichols produced in *King v. Parker* – Middle District of Tennessee proceedings
532. 1/8/2020 Tony Parker's Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
533. Redacted dashboard of invoices and payments to pharmacy for lethal drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
534. Sections of policies and procedures for the Execution team, Victim Services, Execution Perimeter Security cover page, and Execution Forms produced in *King v. Parker* – Middle District of Tennessee proceedings
535. Lethal injection procedures (page 1-50), rev. 7/5/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
536. 8/19/2020 Defendants' Response to Plaintiff's Request for Production of Documents in *King v. Parker* – Middle District of Tennessee proceedings
537. Draft of information to supplement responses to Interrogatory 8 in *King v. Parker* – Middle District of Tennessee proceedings
538. 8/19/2020 Tony Mays' Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
539. Draft of information to supplement responses to Interrogatory 8 in *King v. Parker* – Middle District of Tennessee proceedings
540. 8/19/2020 Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
541. Redacted lethal drug prescription orders for Irick, Zagorski, Miller, Johnson, West, Hall, Sutton and Nichols produced in *King v. Parker* – Middle District of Tennessee proceedings
542. Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
543. Tony May's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings

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544. Draft of proposed supplemental responses to Interrogatories number 8, 9 and 10 in *King v. Parker* – Middle District of Tennessee proceedings
545. Redacted 11/27/2017 executed Pharmacy Services Agreement and 2/20/2018 provider agreement for services rendered by doctor during execution produced in *King v. Parker* – Middle District of Tennessee proceedings
546. 2017 emails re Pentobarbital, new 3-drug protocol including Midazolam, Vecuronium and Potassium Chloride, handwritten notes re procuring Pentobarbital and Pentobarbital property information produced in *King v. Parker* – Middle District of Tennessee proceedings
547. Notes providing names of "Individuals Listed Pages 12-29" and "35-38" in *King v. Parker* – Middle District of Tennessee proceedings
548. 12/19/2019 Email, Subject RE Question in *King v. Parker* – Middle District of Tennessee proceedings
549. Draft of Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
550. Draft of Tony May's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
551. 12/20/2019 Email, Subject 1N Invoice 20191220.xlsx produced in *King v. Parker* – Middle District of Tennessee proceedings
552. 12/19/2019 Email, Subject FW: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
553. 12/9/2019 Email, Subject [EXTERNAL] New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
554. 12/5/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
555. 11/26/2019 Email, Subject [EXTERNAL] Lab results produced in *King v. Parker* – Middle District of Tennessee proceedings
556. 11/21/2019 Email, Subject [EXTERNAL] Alternatives produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 557. 11/20/2019 Email, Subject [EXTERNAL.] see attached produced in *King v. Parker* – Middle District of Tennessee proceedings
- 558. 10/30/2019 Email, Subject [EXTERNAL.] RE: API produced in *King v. Parker* – Middle District of Tennessee proceedings
- 559. 9/19/2019 Email, Subject [EXTERNAL.] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 560. 8/15/2019 Email, Subject [EXTERNAL.] Scanned from a Xerox [Pharmacy] Pharmacy.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 561. 8/12/2019 Email, Subject [EXTERNAL.] 2019-18034.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 562. 8/12/2019 Email, Subject [EXTERNAL.] ETX-190806-0007-1.labReport.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 563. 8/9/2019 Email, Subject [EXTERNAL.] results produced in *King v. Parker* – Middle District of Tennessee proceedings
- 564. 8/8/2019 Email, Subject [EXTERNAL.] Suitability Test produced in *King v. Parker* – Middle District of Tennessee proceedings
- 565. 8/8/2019 Email, Subject [EXTERNAL.] KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 566. 8/8/2019 Email, Subject [EXTERNAL.] RE: kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 567. 8/7/2019 Email, Subject [EXTERNAL.] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 568. 7/31/2019 Email, Subject [EXTERNAL.] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 569. 7/29/2019 Email, Subject [EXTERNAL.] RE: Declaration produced in *King v. Parker* – Middle District of Tennessee proceedings
- 570. 7/26/2019 Email, Subject RE: Declaration produced in *King v. Parker* – Middle District of Tennessee proceedings
- 571. 7/24/2019 Email, Subject [EXTERNAL.] Report produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 572. 7/10/2019 Email, Subject RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 573. 7/2/2019 Email, Subject [EXTERNAL] FW: kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 574. 6/26/2019 Email, Subject kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 575. 6/26/2019 Email, Subject Proposed Alternative produced in *King v. Parker* – Middle District of Tennessee proceedings
- 576. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/> produced in *King v. Parker* – Middle District of Tennessee proceedings
- 577. 6/26/2019 Email, Subject KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 578. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 579. 5/13/2019 Email, Subject FW: Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
- 580. 5/13/2019 Email, Subject RE: Invoice Check produced in *King v. Parker* – Middle District of Tennessee proceedings
- 581. 5/9/2019 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 582. 5/9/2019 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 583. 5/9/2019 Email, Subject report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 584. 4/29/2019 Email, Subject Potency report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 585. 4/2/2019 Email, Subject follow up produced in *King v. Parker* – Middle District of Tennessee proceedings
- 586. 2/26/2019 Email, Subject New invoice produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 587. 2/14/2019 Email, Subject RE: Summary of Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 588. 11/7/2018 Email, Subject RE: Payments [secure email] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 589. 11/6/2018 Email, Subject Open invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 590. 11/2/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 591. 10/31/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 592. 10/10/2018 Email, Subject Final Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 593. 8/27/2018 Email, Subject Our friend Wally produced in *King v. Parker* – Middle District of Tennessee proceedings
- 594. 8/24/2018 Email, Subject Fwd: Tennessee License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 595. 8/23/2018 Email, Subject Fwd: produced in *King v. Parker* – Middle District of Tennessee proceedings
- 596. 8/16/2018 Email, Subject TN 81618 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 597. 8/15/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 598. 8/8/2018 Email, Subject Log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 599. 8/6/2018 Email, Subject USP 71 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 600. 7/25/2018 Email, Subject updated invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 601. 7/23/2018 Email, Subject Shipping SOP produced in *King v. Parker* – Middle District of Tennessee proceedings

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602. 7/18/2018 Email, Subject RE: sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
603. 7/17/2018 Email, Subject sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
604. 7/16/2018 Email, Subject Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
605. 7/15/2018 Email, Subject Fwd: Certificates produced in *King v. Parker* – Middle District of Tennessee proceedings
606. 7/12/2018 Email, Subject Testing report produced in *King v. Parker* – Middle District of Tennessee proceedings
607. 7/9/2018 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
608. 7/9/2018 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
609. 7/9/2018 Email, Subject {No Subject} produced in *King v. Parker* – Middle District of Tennessee proceedings
610. 7/5/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
611. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision\_60062 [Pharmacy] Specialty Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
612. 6/22/2018 Email, Subject {No Subject} produced in *King v. Parker* – Middle District of Tennessee proceedings
613. 6/20/2018 Email, Subject Product Inquiry produced in *King v. Parker* – Middle District of Tennessee proceedings
614. 4/5/2018 Email, Subject FW: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
615. 1/22/2018 Email, Subject List of restricted drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
616. 87-page PDF containing duplicate copies of 65 emails above produced in *King v. Parker* – Middle District of Tennessee proceedings

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617. Draft document providing responses to Interrogatories and Requests for Production produced in *King v. Parker* – Middle District of Tennessee proceedings
618. Tony Parker's Second Supplemental Response to Plaintiff's 1st Set of Interrogatories produced in *King v. Parker* – Middle District of Tennessee proceedings
619. 2020 - 2021 Unredacted training rosters for strap down electrocution and lethal injection, electrocution, lethal injection, protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
620. 2020-2021 training rosters for strap down electrocution and lethal injection, electrocution, lethal injection, protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
621. 5/7/2021 Email from Robert Mitchell to Inglis and Young re depositions requested from Plaintiffs and supplementing discovery responses produced in *King v. Parker* – Middle District of Tennessee proceedings
622. 7/29/2020 redacted training roster for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
623. Draft of Tony May's 3rd Supplemental Response to Plaintiff's Interrogatories produced in *King v. Parker* – Middle District of Tennessee proceedings
624. Redacted compounding formulas for Sodium Hydroxide 1%, Edetate Disodium 1%, Hydrochloric Acid 1%, Midazolam and Potassium Chloride produced in *King v. Parker* – Middle District of Tennessee proceedings
625. Screen shot of text messages re ordering lethal drugs and expiration date produced in *King v. Parker* – Middle District of Tennessee proceedings
626. Screen shot of text messages re inventory of lethal drugs and expiration dates produced in *King v. Parker* – Middle District of Tennessee proceedings
627. Screen shot of text messages re trip to Nashville (for deposition) produced in *King v. Parker* – Middle District of Tennessee proceedings
628. Screen shot of text messages re emailed inventories for lethal drugs, status of ordering Vecuronium and potassium chloride and formulas produced in *King v. Parker* – Middle District of Tennessee proceedings

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629. Screen shot of text messages re travel to Nashville (for deposition) produced in *King v. Parker* – Middle District of Tennessee proceedings
630. Screen shot of text messages re lethal drug and timeframe for its proper use produced in *King v. Parker* – Middle District of Tennessee proceedings
631. Screen shot of text messages re pick up from airport produced in *King v. Parker* – Middle District of Tennessee proceedings
632. Screen shot of text messages re temperature for lethal drug produced in *King v. Parker* – Middle District of Tennessee proceedings
633. Screen shot of text messages re status of ordering lethal drugs and order of vecuronium produced in *King v. Parker* – Middle District of Tennessee proceedings
634. Screen shot of text messages re wanting to discuss latest lawsuit produced in *King v. Parker* – Middle District of Tennessee proceedings
635. Screen shot of text messages re formulas being proprietary and status of lethal drug orders, potassium chloride has come in, availability of vecuronium unclear produced in *King v. Parker* – Middle District of Tennessee proceedings
636. Same Text messages all compiled in a pdf (not in chronological order) produced in *King v. Parker* – Middle District of Tennessee proceedings
637. Same Text messages all compiled in a pdf in chronological order produced in *King v. Parker* – Middle District of Tennessee proceedings
638. 12/20/2019 Email, Subject [EXTERNAL] New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
639. 12/5/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
640. 11/26/2019 Email, Subject [EXTERNAL] Lab results produced in *King v. Parker* – Middle District of Tennessee proceedings
641. 11/21/2019 Email, Subject [EXTERNAL] Alternatives produced in *King v. Parker* – Middle District of Tennessee proceedings
642. 11/20/2019 Email, Subject [EXTERNAL] see attached produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 643. 10/30/2019 Email, Subject [EXTERNAL] RE: API produced in *King v. Parker* – Middle District of Tennessee proceedings
- 644. 9/19/2019 Email, Subject [EXTERNAL] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 645. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 646. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 647. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 648. 8/9/2019 Email, Subject [EXTERNAL] results produced in *King v. Parker* – Middle District of Tennessee proceedings
- 649. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test produced in *King v. Parker* – Middle District of Tennessee proceedings
- 650. 8/8/2019 Email, Subject [EXTERNAL] KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 651. 8/8/2019 Email, Subject [EXTERNAL] RE: kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 652. 8/7/2019 Email, Subject [EXTERNAL] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 653. 7/31/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 654. 7/24/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 655. 7/10/2019 Email, Subject RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 656. 7/2/2019 Email, Subject [EXTERNAL] FW: kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 657. 6/26/2019 Email, Subject kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 658. 6/26/2019 Email, Subject Proposed Alternative produced in *King v. Parker* – Middle District of Tennessee proceedings
- 659. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/> produced in *King v. Parker* – Middle District of Tennessee proceedings
- 660. 6/26/2019 Email, Subject KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 661. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 662. 5/13/2019 Email, Subject FW: Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
- 663. 5/13/2019 Email, Subject RE: Invoice Check produced in *King v. Parker* – Middle District of Tennessee proceedings
- 664. 5/9/2019 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 665. 5/9/2019 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 666. 5/9/2019 Email, Subject report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 667. 4/29/2019 Email, Subject Potency report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 668. 4/2/2019 Email, Subject follow up produced in *King v. Parker* – Middle District of Tennessee proceedings
- 669. 2/26/2019 Email, Subject New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 670. 2/14/2019 Email, Subject RE: Summary of Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 671. 11/7/2018 Email, Subject RE: Payments [secure email] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 672. 11/6/2018 Email, Subject Open Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 673. 11/2/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 674. 10/31/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 675. 10/10/2018 Email, Subject Final Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 676. 8/16/2018 Email, Subject TN81618 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 677. 8/15/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 678. 8/8/2018 Email, Subject Log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 679. 8/6/2018 Email, Subject USP 71 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 680. 7/25/2018 Email, Subject updated invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 681. 7/23/2018 Email, Subject Shipping SOP produced in *King v. Parker* – Middle District of Tennessee proceedings
- 682. 7/18/2018 Email, Subject RE: sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 683. 7/17/2018 Email, Subject sample Rx produced in *King v. Parker* – Middle District of Tennessee proceedings
- 684. 7/16/2018 Email, Subject Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 685. 7/12/2018 Email, Subject Testing report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 686. 7/9/2018 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 687. 7/9/2018 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 688. 7/5/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 689. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision\_60062 [Pharmacy] Specialty Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
- 690. 6/22/2018 Email, Subject {NO SUBJECT} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 691. 12/5/2017 Email, Subject RE: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 692. 12/4/2017 Email, Subject RE: {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 693. 12/4/2017 Email, Subject RE {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 694. 12/4/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 695. 11/28/2017 Email, Subject RE {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 696. 11/28/2017 Email, Subject Re: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 697. 11/28/2017 Email, Subject RE: {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 698. 11/28/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 699. 11/27/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 700. 11/15/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 701. 11/14/2017 Email, Subject Re: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 702. 11/14/2017 Email, Subject FW: TN drugs produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 703. 11/14/2017 Email, Subject Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 704. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 705. 11/9/2017 Email, Subject Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 706. 11/7/2017 Email, Subject Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 707. 11/1/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 708. 11/1/2017 Email, Subject More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 709. 11/1/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 710. 10/31/2017 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 711. 10/26/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 712. 10/20/2017 Email, Subject Can you send the inventory and invoice info? produced in *King v. Parker* – Middle District of Tennessee proceedings
- 713. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 714. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 715. Attachments providing dosing information for lethal drugs, quantities needed and available and costs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 716. 12/28/2017 Email, Subject Updated Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 717. 12/28/2017 Email, Subject New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 718. 12/15/2017 Email, Subject RE: Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 719. 12/14/2017 Email, Subject RE: Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 720. 12/12/2017 Email, Subject RE: Call produced in *King v. Parker* – Middle District of Tennessee proceedings
- 721. 12/12/2017 Email, Subject RE: Call produced in *King v. Parker* – Middle District of Tennessee proceedings
- 722. 12/11/2017 Email, Subject Re: Status produced in *King v. Parker* – Middle District of Tennessee proceedings
- 723. 12/11/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 724. 12/11/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 725. 12/11/2017 Email, Subject RE: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 726. 12/11/2017 Email, Subject RE: Can you confirm {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 727. 12/11/2017 Email, Subject RE: Can you confirm {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 728. 12/6/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 729. 12/5/2017 Email, Subject RE: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 730. Redacted 2/11/2020 and 8/4/2020 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 731. Redacted 12/30/2017 – 11/26/2019 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 732. Manual for the Glock Transition Course produced in *King v. Parker* – Middle District of Tennessee proceedings

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733. Lesson plan for the Glock Transition Course, FY 2017/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
734. Lesson plan for the Glock Transition Course, FY 2017/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
735. PowerPoint presentation on the Glock produced in *King v. Parker* – Middle District of Tennessee proceedings
736. PowerPoint presentation on the Glock produced in *King v. Parker* – Middle District of Tennessee proceedings
737. Program Curriculum for Revolver training, 4/23/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
738. Firearms Skills Sheet for Revolver/Shotgun produced in *King v. Parker* – Middle District of Tennessee proceedings
739. PowerPoint presentation on the Revolver produced in *King v. Parker* – Middle District of Tennessee proceedings
740. PowerPoint on pre-service firearms training program covering policies and procedures produced in *King v. Parker* – Middle District of Tennessee proceedings
741. Program curriculum for firearms policies and procedures, rev 7/18/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings
742. Program curriculum for range familiarization, rev 7/5/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings
743. Unredacted spreadsheet of staff commissioned as personal protection officers, as of 12/17/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
744. Unredacted copies of TDOC Annual Weapons Qualification Cards produced in *King v. Parker* – Middle District of Tennessee proceedings
745. TDOC policies and procedures for Standard Firearms Qualification Training, effective 4/1/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
746. Midazolam storage and preparation instructions and Potassium Chloride preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 747. LIC Administration and IV Training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 748. 2017 redacted rosters for Execution, Death watch, Practice, Protocol Review, and Training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 749. 2020 redacted training rosters for Execution, Review of Protocol, Lethal Injections, Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 750. 2019 - 2020 redacted training rosters for Electrocutation, Lethal Injection, Protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 751. 2019 redacted training rosters for protocol, Lethal Injection and Strap down and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 752. 2019 redacted training rosters for Lethal Injection, Spike with bag and Establish IV and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 753. 2019 redacted training rosters for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 754. 2018 - 2019 redacted training rosters for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 755. 9/25/2018 lethal injection training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 756. 2018 redacted training rosters for protocol review, lethal injection, LIC Administration and IV Training and execution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 757. Redacted printout of payments made for lethal drugs and supplies to pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
- 758. Redacted printout of payments made for lethal drugs and supplies to pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings

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759. Redacted 12/20/2019, 2/11/2020 and 7/28/2020 pharmacy Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
760. Redacted dashboard printout of payments to pharmacy and redacted pharmacy Invoices from 10/26/2017, 11/1/2017, 11/27/2017, 12/14/2017, 12/28/2017, 7/5/2018, 7/5/2018, 8/7/2019, 8/7/2019, 8/16/2018, 10/31/2018, 2/26/2019, and 12/6/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
761. Redacted 12/20/2017 Prescription for Midazolam 800 vials, Vecuronium Bromide 400 vials and Potassium Chloride 120 vials produced in *King v. Parker* – Middle District of Tennessee proceedings
762. July 2018 redacted training rosters for lethal injection and Protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
763. Redacted 2017 emails re procuring lethal drugs, 2015 and 2017 training rosters and materials and Execution Procedures for Electrocution, rev 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings
764. 7/10/2018 redacted training roster for execution protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
765. 6/13/2018 redacted training roster for lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
766. 10/15/2018 Letter to Kelley Henry at the Federal Public Defender's Office providing 87 pages of records related to the 9/28/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
767. Redacted 2018 training rosters for lethal injection and electric chair and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (87 pages)
768. 10/8/2018 Letter to Kelley Henry at the Federal Public Defender's Office responding to request for records related to the 9/28/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
769. 9/28/2018 Letter requesting records under the TPRA related to executions via lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings

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770. Redacted 2007 - 2018 testing logs for electric chair and annual electrocution equipment inspection letters produced in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
771. Redacted 2018 training rosters for electrocution practice, electrocution protocol review, lethal injection protocol, lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (106 pages)
772. 10/18/2018 Letter from Kelley Henry at the Federal Public Defender's Office requesting records under the TPRA related to executions via lethal injection and electrocution and 10/29/2018 Letter providing records in response produced in *King v. Parker* – Middle District of Tennessee proceedings
773. Redacted emails, Victim forms and letters re attendance at execution, Outlook notifications for inmate meetings, Electrocutation Chronological Execution Report, TDOC Incident Report and dashboard printouts, Offender Attributes printout, Personal Property Inventory, Summary of Death report, Execution day planning docs, Zagorski's Telephone Call Log, Death Row Offender Info, Tool Inventory and checks, Key Log, Post-Inspection Form and Tool Control Form produced in *King v. Parker* – Middle District of Tennessee proceedings (137 pages)
774. Redacted Emails, Victim forms and letters re attendance at execution, Outlook notifications for inmate meetings, Electrocutation Chronological Execution Report, TDOC Incident Report and dashboard printouts, Offender Attributes printout, Personal Property Inventory, Summary of Death report, Execution day planning docs, Zagorski's Telephone Call Log, Death Row Offender Info, Tool Inventory and checks, Key Log, Post-Inspection Form and Tool Control Form produced in *King v. Parker* – Middle District of Tennessee proceedings (121 pages)
775. Redacted emails, Victim forms and letters re attendance at execution, Media info and forms for attendance at execution, filings and orders, Zagorski execution elections, execution notification drafts and final copies produced in *King v. Parker* – Middle District of Tennessee proceedings (207 pages)
776. Emails, Victim forms and letters re attendance at execution, Media info and forms for attendance at execution, filings and orders, Zagorski execution elections, execution notification drafts and final copies produced in *King v. Parker* – Middle District of Tennessee proceedings
777. Emails, execution attendance letters, media attendance and applications, Zagorski's execution election letter and affidavit to have counsel at

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- execution, letters from Zagorski's counsel, records re preparation for execution, Victim Services letters, Outlook meeting records for visits, Electrocutation chronological report records, TDOC Incident Report, Discipline records, Memo re last meal, offender info, personal property inventory, Offender information, tool inventory and tool check record produced in *King v. Parker* – Middle District of Tennessee proceedings
778. Redacted training rosters for electrocution practice and lethal injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (32 pages)
779. 11/9/2018 Letter from Jessica Johnson, investigator in the Federal Defender Services requesting records related to Zagorski's 11/1/2018 execution and records related to drugs intended for use in David Earl Miller's execution on 12/6/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
780. Redacted Death Watch logs for Zagorski and redacted Record of staff visits produced in *King v. Parker* – Middle District of Tennessee proceedings (37 pages)
781. Death Watch logs for Zagorski and Record of Staff Visits for use in *King v. Parker* – Middle District of Tennessee proceedings
782. Redacted Death Watch logs for Zagorski produced in *King v. Parker* – Middle District of Tennessee proceedings (75 pages)
783. Death Watch logs for Zagorski produced in *King v. Parker* – Middle District of Tennessee proceedings
784. 11/14/2018 Letter responding to request advising records will be compiled produced in *King v. Parker* – Middle District of Tennessee proceedings
785. 11/27/2018 Letter advising that requested records are ready and the cost for same produced in *King v. Parker* – Middle District of Tennessee proceedings
786. 11/7/2017 Email, Subject produced in *King v. Parker* – Middle District of Tennessee proceedings
787. 11/28/2017 Email, Subject [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
788. 11/28/2017 Email, Subject Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings

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789. 11/27/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
790. 11/27/2017 Email, Subject RE: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
791. 11/28/2017 Email, Subject Re: [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
792. 12/4/2017 Email, Subject Re: [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
793. 11/28/2017 Email, Subject RE: Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings
794. 11/28/2017 Email, Subject RE: Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings
795. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
796. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
797. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
798. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
799. 11/28/2017 Email, Subject Re: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
800. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
801. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
802. 10/18/2017 Email, Subject RE: Applicant for licensure as a [Pharmacist] in TN produced in *King v. Parker* – Middle District of Tennessee proceedings
803. 11/14/2017 Email, Subject Re: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 11/14/2017 Email, Subject RE: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 804.
- 10/26/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 805.
- 10/27/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 806.
- 11/1/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 807.
- 11/9/2017 Email, Subject Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 808.
- 10/18/2017 Email, Subject Fwd: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 809.
- 11/8/2017 Email, Subject Fwd: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 810.
- 11/14/2017 Email, Subject FW: TN drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 811.
- 10/18/2017 Email, Subject Applicant for licensure as a [Pharmacist] in TN produced in *King v. Parker* – Middle District of Tennessee proceedings
- 812.
- 12/4/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 813.
- 10/26/2017 Email, Subject Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 814.
- 10/26/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 815.
- Redacted emails from 1/3/2018 re Pharmacy's Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 816.
- Redacted emails from 12/5/2017 – 1/3/2018 re Pharmacy's Invoices, confidentiality of pharmacy under TCA 10-7-504(h), shipments of drugs, scheduling a time to talk on the telephone and Pharmacy's Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 817.

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- 2/20/2018 Agreement between TDOC and redacted unknown party, Emails, Electric chair testing logs and training logs and materials produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
- 818.
- 6/5/2018 Letter from Kelley Henry requesting records related to executions, lethal injections and electrocutions produced in *King v. Parker* – Middle District of Tennessee proceedings
- 819.
- Unredacted 5/15/2018 and 5/16/2018 Training rosters for Protocol review and Lethal Injection and training materials for use in the *King v. Parker* – Middle District of Tennessee proceedings
- 820.
- 6/12/2018 Letter from Debra Inglis responding to 6/5/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 821.
- 6/20/2018 Letter from Debra Inglis providing records in response to 6/5/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 822.
823. Redacted 5/15/2018 and 5/16/2018 Training rosters for Protocol review and Lethal Injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (13 pages)
824. Redacted March 2018 Training rosters for Electric chair, Death Watch, Lethal Injection, and Protocol Review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
825. 6/8/2018 Letter from Debra Inglis enclosing records in response to 2/2/2018, 3/7/2018, 4/7/2018 and 5/4/2018 requests, Redacted Agreement between TDOC and medical provider, March 2016 - August 2018 Electric chair testing logs, 2018 redacted training rosters and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (93 pages)
826. 4/2/2018 Letter from Debra Inglis providing records in response to requests on 2/2/2018 and 3/7/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
827. Redacted Billy Ray Irick Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution and redacted July 2018 Training rosters for electrocution and lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)

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828. Billy Ray Irick Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution and unredacted July 2018 Training rosters for electrocution and lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
829. 7/10/2018 Letter from Debra Inglis enclosing records in response to 7/3/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
830. 7/3/2018 Letter from Kelley Henry requesting records related to lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
831. 7/30/2018 Letter from Debra Inglis responding to 7/16/2018 request for records and enclosing TDOC rules and regulations revision chart produced in *King v. Parker* – Middle District of Tennessee proceedings (8 pages)
832. 7/16/2018 Letter from Michael Chavis requesting records re TDOC's rules and regulations and 7/25/2018 Letter from Debra Inglis responding to the 7/16/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
833. 7/16/2018 Letter from Michael Chavis requesting records re TDOC's rules and regulations produced in *King v. Parker* – Middle District of Tennessee proceedings
834. 8/15/2018 Letter from Debra Inglis enclosing records in response to the 7/26/2018 request with redacted records enclosed produced in *King v. Parker* – Middle District of Tennessee proceedings (55 pages)
835. 8/15/2018 Payment receipt for records request produced in *King v. Parker* – Middle District of Tennessee proceedings
836. 8/6/2018 Letter from Debra Inglis in response to 7/16/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
837. 7/26/2018 Letter from Kelley Henry requesting records re lethal injection, electrocution and executions produced in *King v. Parker* – Middle District of Tennessee proceedings
838. Redacted July 2018 training rosters for lethal injection, Protocol training, execution training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (27 pages)

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- 839. Unredacted July 2018 training rosters for lethal injection, protocol training, execution training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 840. Unredacted July 2018 training rosters for lethal injection and protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 841. Redacted July 2018 training rosters for lethal injection and protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (29 pages)
- 842. 8/21/2018 Letter from Debra Inglis responding to requests for records on 8/8/2018 and 8/15/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 843. 7/18/2018 Billy Ray Irick Prescription for Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
- 844. TDOC Incident Report re Billy Ray Irick's execution via lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 845. Death watch logs for Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings
- 846. Court filings and orders re Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings
- 847. Victim Services forms and letters re attending Irick's execution, Media information and forms for attending Irick's execution and Elections to attend Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 848. Irick Motion, Emails, Inmate Inquiry, Visitation records and Order produced in *King v. Parker* – Middle District of Tennessee proceedings
- 849. Irick Execution day logistics records, Irick TDOC Segregation Unit Record for Death Sentenced Inmates, Death Row Offender Info, Key Log, Post Inspection Form, Weekly Tool Inventory, Tool Checks and Control forms produced in *King v. Parker* – Middle District of Tennessee proceedings
- 850. Midazolam storage and preparation instructions and Pharmacy Invoice information produced in *King v. Parker* – Middle District of Tennessee proceedings

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851. Unredacted July and August 2018 Training rosters for Lethal Injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
852. 9/14/2018 Letter from Michael Chavis renewing his previous request for certain records re Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
853. 9/4/2018 Letter from Debra Inglis responding to 8/15/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
854. 8/15/2018 Letter from Michael Chavis requesting certain records re Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
855. 9/11/2018 Draft letter from Debra Inglis providing records in response to 8/15/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
856. 9/21/2018 Draft letter from Debra Inglis responding to 9/14/2018 and 8/15/2018 requests for records produced in *King v. Parker* – Middle District of Tennessee proceedings.
857. Victim Notification Services - What to Expect on Execution Day produced in *King v. Parker* – Middle District of Tennessee proceedings (7 pages)
858. 9/24/2018 Letter from Debra Inglis enclosing records in response to 8/15/2018 and 9/14/2018 requests for records and enclosing Victim Notification Services brochure re What to Expect on Execution Day produced in *King v. Parker* – Middle District of Tennessee proceedings
859. TDOC Critical Incident Stress Management info for family members and friends after an execution produced in *King v. Parker* – Middle District of Tennessee proceedings
860. 9/11/2018 Letter from Debra Inglis providing records in response to 8/15/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
861. Redacted June and July 2018 training rosters for lethal injection practice, protocol training and review, electrocution and execution training and training materials and Irick's Affidavits Concerning Method of Execution and selection of attorney to witness the execution produced in *King v. Parker* – Middle District of Tennessee proceedings (141 pages)

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862. 9/4/2018 Letter from Debra Inglis providing records in response to requests on 8/8/2018 and 8/15/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
863. 8/8/2018 Letter from Paul Bottei requesting records re lethal drugs for Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
864. Redacted Media Info and forms for Irick's execution and elections to witness Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
865. Redacted July and August 2018 training rosters for lethal injection and training materials, Irick Death Watch logs, Irick Midazolam prescription, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re selection of defense counsel to witness execution and method of execution, notification letter re execution, Irick's Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical preparation records and Victim Services forms and letters re attendance at execution produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
866. Execution documents for Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings (17 pages)
867. Redacted 9/18/2019 training rosters for Lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (14 pages)
868. 10/15/2019 Letter from Debra Inglis providing records in response to 9/24/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
869. 9/24/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
870. 11/6/2019 Letter from Evelyn Caicedo requesting records re Execution Procedures for Electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
871. 11/13/2019 Letter from [Drug Procurer] responding to 11/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings

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872. 11/22/2019 Letter from [Drug Procurer] providing records in response to 11/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
873. Execution Procedures for Electrocution, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (88 pages)
874. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings (99 pages)
875. 1/2/2019 Letter from Jessica Johnson requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
876. 1/3/2019 Letter from Debra Inglis responding to 1/2/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
877. 1/18/2018 Letter from Debra Inglis providing records in response to 1/2/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings (29 pages)
878. Records re Invoices and payments to [Pharmacy], [Pharmacy] Invoices, 7/1/2018 Letter re approval of vouchers for payment with redacted info produced in *King v. Parker* – Middle District of Tennessee proceedings
879. 1/2/2019 Email from Neysa Taylor to Debbie Inglis enclosing a 1/2/2019 public records request addressed to the Tennessee Department of Finance from Jessica Johnson produced in *King v. Parker* – Middle District of Tennessee proceedings
880. 2/15/2019 draft letter from Debra Inglis providing records in response to 2/11/2019 and 10/31/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
881. 2/5/2019 Letter from Debra Inglis responding to 1/2/2019 and 1/29/2019 requests sent to the Department of Health and responding to 1/31/2019 request for additional information produced in *King v. Parker* – Middle District of Tennessee proceedings
882. 2/8/2019 Letter from Debra Inglis providing a response to the 1/8/2019 request and enclosing redacted [Pharmacy] Invoices and TDOC payment records produced in *King v. Parker* – Middle District of Tennessee proceedings (6 pages)

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883. 1/3/2019 Letter from Debra Inglis responding to the 1/2/2019 request addressed to the Tennessee Department of Finance produced in *King v. Parker* – Middle District of Tennessee proceedings
884. 1/10/2019 Letter from Debra Inglis responding to the 1/2/2019 request addressed to the Tennessee Department of Finance produced in *King v. Parker* – Middle District of Tennessee proceedings
885. Redacted TDOC records re [Pharmacy] Invoices and payments produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
886. 2/22/2019 Letter from Debra Inglis responding to 2/11/2019 Letter and enclosing Redacted TDOC records re [Pharmacy] Invoices and payments produced in *King v. Parker* – Middle District of Tennessee proceedings (4 pages)
887. 1/2/2019 Letter from Jessica Johnson to TDOC requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
888. 1/2/2019 Letter from Jessica Johnson to Tennessee Department of Finance requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
889. 2/11/2019 Letter from Jessica Johnson following up to original request on 1/2/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
890. Redacted Death Watch logs for Stephen West produced in *King v. Parker* – Middle District of Tennessee proceedings (28 pages)
891. Redacted August 2019 - November 2019 training rosters for Strap Down training, Lethal Injection, Electrocution, Protocol Review, and training materials, Media info and forms re attendance at execution, Outlook notifications for meetings, Victim Services notices and letters, elections to attend execution, TDOC Incident Report of West's death, Day of Execution - Electrocution Execution Recorder Checklist, Record of Staff Visits and Death Watch Logs produced in *King v. Parker* – Middle District of Tennessee proceedings (147 pages)
892. Redacted August 2019 Training Rosters for Lethal Injection and Electric Chair and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (33 pages)
893. Redacted May 2019 - August 2019 Training Rosters for Electrocution, Lethal Injection and Spike IV Bag and Establish IV and training materials

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produced in *King v. Parker* – Middle District of Tennessee proceedings (139 pages)

894. 11/14/2019 Letter from Debra Inglis responding to 11/14/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
895. 12/17/2019 Letter from Debra Inglis providing records in response to 11/14/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
896. Redacted TDOC Incident Report re death of West, Day of Execution - Electrocutation Execution Recorder Checklist and Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
897. 12/9/2019 Letter from Debra Inglis responding to 12/9/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
898. 11/14/2019 Letter from Jessica Johnson requesting records re lethal injection records and West electrocution records produced in *King v. Parker* – Middle District of Tennessee proceedings
899. Redacted 10/29/2018 Training rosters for Electrocutation practice and Lethal Injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (32 pages)
900. 1/31/2019 Letter from Debra Inglis responding to 1/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
901. Redacted October 2018 - January 2019 Training rosters for Electrocutation practice, Lethal Injection and Electric Chair and training materials and Electric Chair testing logs, [Pharmacy] invoice and payment info produced in *King v. Parker* – Middle District of Tennessee proceedings (128 pages)
902. Redacted December 2017 - 2018 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
903. 1/22/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and executions and 1/25/2019 Letter from Debra Inglis responding to 1/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
904. Redacted Electric Chair testing logs for 2018, Unredacted November 2018 - January 2019 training rosters for Electric Chair, Lethal Injection and Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings

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905. 2/13/2019 Email from [Drug Procurer] to [Drug Procurer] enclosing unredacted 12/30/2017 – 11/20/2018 lethal drug inventories produced in *King v. Parker* – Middle District of Tennessee proceedings
906. 2/19/2019 Letter from Debra Inglis in response to 2/8/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
907. Record of staff visits, Zagorski's Medical Examiner's Report and Labs, Irick's Medical Examiner's Report and Labs, TDOC Incident Report for Miller's death, Email requesting Miller's autopsy report, Miller's TDOC Summary of Death, Letter Requesting Miller's autopsy report, and Media Info and selection records produced in *King v. Parker* – Middle District of Tennessee proceedings (130 pages)
908. Redacted Death Watch logs for Miller produced in *King v. Parker* – Middle District of Tennessee proceedings (42 pages)
909. Redacted Media Info and selection records, Miller execution attendance elections, Miller's affidavit re selection of attorney at execution, letters from Miller's attorney, Emails, Notification letter re execution, Outlook notifications for visits, Offender info, Miller TDOC Incident Reports re Miller's execution, Miller's Day of Execution - Electrocutation Execution Recorder Checklist, Inmate Inquiry, Miller Summary of Death, TDOC Health Services Morbidity and Mortality Summary, Miller filings and Orders, Visitor and visitation records, TDOC Incident record, 12/6/2018 handwritten note re staying Miller's execution, Miller Incident reports and USPS Return Receipts produced in *King v. Parker* – Middle District of Tennessee proceedings (172 pages)
910. Miller Incident report, USPS Return Receipts, Redacted Record of Staff Visits and redacted lethal drug inventories from September 2018 - December 2018 produced in *King v. Parker* – Middle District of Tennessee proceedings (37 pages)
911. Media info and selections to attend execution, Miller Death Watch logs, Victim Services letters and elections to attend execution, Miller's Affidavit re selecting counsel to attend execution, Outlook notifications of visits, Memo re Miller's legal visits, Emails, Offender Info, TDOC Incident Reports, Day of Execution - Electrocutation Execution Recorder Checklist, Inmate Inquiry, Orders and filings and Miller visitor and visitation records produced in *King v. Parker* – Middle District of Tennessee proceedings (192 pages)

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912. 2/8/2019 Email from Debbie Inglis to [Drug Procurer] forwarding an email from Kelley Henry clarifying records requested produced in *King v. Parker* – Middle District of Tennessee proceedings
913. 2/19/2019 Email from [Drug Procurer] to Janet Santana regarding records requested produced in *King v. Parker* – Middle District of Tennessee proceedings
914. Unredacted Record of staff visits, Zagorski's Medical Examiner's Report and Labs, Irick's Medical Examiner's Report and Labs, TDOC Incident Report for Miller's death, Email requesting Miller's autopsy report, Miller's TDOC Summary of Death, Letter Requesting Miller's autopsy report, and Media Info and selection records produced in *King v. Parker* – Middle District of Tennessee proceedings
915. Unredacted Death Watch logs for Miller produced in *King v. Parker* – Middle District of Tennessee proceedings
916. Unredacted Media Info and selection records, Miller execution attendance elections, Miller's affidavit re selection of attorney at execution, letters from Miller's attorney, Emails, Notification letter re execution, Outlook notifications for visits, Offender info, Miller TDOC Incident Reports re Miller's execution, Miller's Day of Execution - Electrocutation Execution Recorder Checklist, Inmate Inquiry, Miller Summary of Death, TDOC Health Services Morbidity and Mortality Summary, Miller filings and Orders, Visitor and visitation records, TDOC Incident record, 12/6/2018 handwritten note re staying Miller's execution, Miller Incident reports and USPS Return Receipts produced in *King v. Parker* – Middle District of Tennessee proceedings
917. 4/15/2019 Letter from Debra Inglis responding to 3/28/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
918. Redacted electric chair testing log, Redacted February 2019 - March 2019 Training Rosters for Injection and Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (48 pages)
919. Unredacted electric chair testing log, Unredacted February 2019 - March 2019 Training Rosters for Injection and Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
920. 4/1/2019 Letter from Debra Inglis responding to 3/28/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings

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921. 3/28/2018 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
922. Redacted April 2019 - May 2019 Training Rosters for Lethal Injection, Electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
923. 2/26/2019 [Pharmacy] Invoice for Bacteriostatic water, Sodium Chloride and Lactated Ringers produced in *King v. Parker* – Middle District of Tennessee proceedings
924. Redacted November 2018 - March 2019 Training Rosters for Electrocution, Lethal Injection, 2018 - 2019 electric chair testing logs, 2/26/2019 [Pharmacy] Invoice and May 9, 2019 lethal drug inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
925. 5/8/2019 Letter from Debra Inglis responding to 5/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
926. 5/23/2019 Letter from Debra Inglis responding to 5/6/2019 request with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
927. 5/6/2019 Letter from Jessica Johnson requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
928. 6/14/2019 Letter from Debra Inglis responding 6/10/2019 request and enclosing Dec 2017 - Nov 2018 redacted lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings (9 pages)
929. Redacted Dec 2017 - Nov 2018 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings (7 pages)
930. Unredacted Dec 2017 - Nov 2018 lethal drugs inventory for use in *King v. Parker* – Middle District of Tennessee proceedings
931. 6/10/2019 Letter from Jessica Johnson requesting records re lethal drug inventories produced in *King v. Parker* – Middle District of Tennessee proceedings
932. 6/5/2019 Email from [Drug Procurer] to Janet Santana responding to 5/20/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

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933. Redacted Record of Staff Visits, Donnic Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep sheets and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (18 pages)
934. Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Letters to Gov. Lee re clemency, Death Watch logs, May 9, 2019 Inventory of Midazolam and Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (188 pages)
935. 5/22/2019 Email from [Drug Procurer] to Debbie Inglis with draft response to Kelly Henry's 5/20/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
936. Unredacted 5/9/2019 lethal drug inventory for Midazolam for use in *King v. Parker* – Middle District of Tennessee proceedings
937. 6/5/2019 Letter from Debra Inglis to Kelley Henry responding to 5/20/2019 request with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
938. 4/24/2019 Email from Melissa Hood to Debbie Inglis enclosing 4/16/2019 Letter from the Eleos Institute re upgrading state's electric chair produced in *King v. Parker* – Middle District of Tennessee proceedings
939. Redacted Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Execution day planning records, Phone call logs and Letters to Gov. Lee re clemency produced in *King v. Parker* – Middle District of Tennessee proceedings (182 pages)
940. Unredacted Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Execution day planning records,

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Phone call logs and Letters to Gov. Lee re clemency for use in *King v. Parker* – Middle District of Tennessee proceedings

941. Redacted Johnson Death Watch logs produced in *King v. Parker* – Middle District of Tennessee proceedings (48 pages)
942. Unredacted Johnson Death Watch logs for use in *King v. Parker* – Middle District of Tennessee proceedings
943. Redacted TDOC internal record of Johnson's execution, Summary of Death, Execution day planning records, record of staff visits, Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep records and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (35 pages)
944. Unredacted TDOC internal record of Johnson's execution, Summary of Death, Execution day planning records, record of staff visits, Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep records and TDOC Incident Report for Charles Walton Wright for use in *King v. Parker* – Middle District of Tennessee proceedings
945. Redacted April 2019 - August 2019 Training rosters for lethal injection, electrocution, Spike IV Bag and Establish IV, Strap down and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (325 pages)
946. Unredacted April 2019 - August 2019 Training rosters for lethal injection, electrocution, Spike IV Bag and Establish IV, Strap down and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
947. 8/6/2019 Letter from Debra Inglis responding to 8/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
948. 8/30/2019 Letter from Debra Inglis providing records in response to 8/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
949. 8/1/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
950. 11/16/2020 Email from Richard Tennent to [Drug Procurer] enclosing 11/16/2020 request for records re COVID-19 policies and procedures in

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place at Riverbend produced in *King v. Parker* – Middle District of Tennessee proceedings

951. 11/24/2020 Letter from [Drug Procurer] responding to 11/16/2020 request for records and enclosing TDOC Memos and protocols re COVID-19 produced in *King v. Parker* – Middle District of Tennessee proceedings
952. 11/16/2020 Letter from Richard Tennent requesting records re COVID-19 policies and procedures in place at Riverbend produced in *King v. Parker* – Middle District of Tennessee proceedings
953. 1/15/2020 Email from [Drug Procurer] to Janet Santana responding to 12/13/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
954. November 2019 - December 2019 redacted training rosters for electrocution and lethal injection and training materials, redacted emails from/about [Pharmacy] re invoices, payments, lethal drug shipments, procuring lethal drugs and lab reports produced in *King v. Parker* – Middle District of Tennessee proceedings (67 pages)
955. October 2019 - November 2019 redacted training rosters for lethal injection, electrocution and lethal injection protocol reviews, electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (52 pages)
956. Redacted Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (10 pages)
957. Media Info and selections to view execution of Stephen West, letters re attendance at execution, Outlook notifications for visitations, West' Personal Property inventory and Storage Request, Death Watch logs, TDOC Incident Report and Day of Execution - Electrocution Execution Recorder Checklist produced in *King v. Parker* – Middle District of Tennessee proceedings (120 pages)
958. 12/13/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
959. 12/18/2019 Letter from Debra Inglis responding to request for records on 12/13/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings

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960. 1/31/2020 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
961. Redacted 12/20/2019 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
962. 12/20/2019 Invoice from [Pharmacy] for Midazolam and KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
963. Redacted February 2020 Training rosters for Electrocution and training materials, redacted drug logs and redacted 12/20/2019 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings (9 pages)
964. Redacted January 2020 - February 2020 Training rosters for Protocol, lethal injection, electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (116 pages)
965. 2/4/2020 Letter from Debra Inglis responding to 1/31/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
966. 2/24/2020 Letter from Debra Inglis providing records in response to 1/31/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
967. Unredacted February 2020 - March 2020 Training rosters for electrocution, lethal injection, Review of Protocol, and training materials and Day of Execution - Electrocution Execution Recorder Checklist for use in *King v. Parker* – Middle District of Tennessee proceedings
968. 3/2/2020 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
969. Redacted February 2020 - March 2020 Training rosters for electrocution, review of protocol, lethal injection, and training materials, and redacted August 2019 - February 2020 drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
970. 3/9/2020 Letter from Debra Inglis responding to 3/2/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

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971. 3/23/2020 Letter from Debra Inglis providing records in response to 3/2/2020 request produced in *King v. Parker* – Middle District of Tennessee proceedings
972. Redacted August 2019 - February 2020 Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
973. Unredacted August 2019 - February Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
974. 6/3/2020 Email from [Drug Procurer] to Debbie Inglis with draft response to 5/29/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
975. Redacted 5/28/2020 training roster for Lethal Injections, Aug 2019 - Feb 2020 Electric Chair testing log, 2/11/2020 Lethal drug inventory and 2/11/2020 [Pharmacy] Invoice for KCI and Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings (5 pages)
976. Redacted January 2020 - March 2020 and May 2020 training rosters for Protocol, Lethal Injection, Electrocution, Review of Protocol, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (144 pages)
977. 5/29/2020 Email from Debbie Inglis to [Drug Procurer] forwarding 5/29/2020 Request for Records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
978. 6/8/2020 Letter from Debra Inglis responding to 5/29/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
979. 5/29/2020 Letter from Michael Chavis requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
980. Redacted June 2020 - July 2020 training rosters for lethal injection, electrocution and Protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
981. 8/7/2020 Email from Debbie Inglis to [Drug Procurer] re responding to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
982. Redacted 7/29/2020 training roster for lethal injection and training materials, 7/28/2020 [Pharmacy] Invoice the annual service fee, lethal

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drugs and supplies produced in *King v. Parker* – Middle District of Tennessee proceedings

983. 8/10/2020 Email from Melissa Hood to [Drug Procurer] encl unredacted 7/29/2020 training roster for lethal injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
984. Unredacted 7/29/2020 training roster for lethal injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
985. 7/29/2020 Letter from Michael Chavis requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
986. 3/14/2022 Draft letter from Debra Inglis to Kelley Henry providing records in response to 2/11/2022 request produced in *King v. Parker* – Middle District of Tennessee proceedings
987. 2/11/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
988. Redacted Nov 2021 - January 2022 Training rosters for protocol, strap down, electrocution, and lethal injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (36 pages)
989. Redacted Nov 2021 - January 2022 Training rosters for protocol, strap down, electrocution, and lethal injection, and training materials, 11/30/2021 [Pharmacy] Invoice, Lethal drugs inventory log, and November 2021 emails re ordering lethal drugs and status of delivery produced in *King v. Parker* – Middle District of Tennessee proceedings (23 pages)
990. 1/3/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
991. 11/30/2021 Redacted [Pharmacy] Invoice for Sodium Chloride and Vecuronium produced in *King v. Parker* – Middle District of Tennessee proceedings
992. Redacted 12/1/2021 Drug inventory log for Vecuronium Bromide produced in *King v. Parker* – Middle District of Tennessee proceedings
993. Unredacted 12/1/2021 Drug inventory log for Vecuronium Bromide for use in *King v. Parker* – Middle District of Tennessee proceedings

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994. Draft 1/25/2022 Letter from Debra Inglis to Kelley Henry responding to 1/3/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
995. Draft 1/31/2022 Letter from Debra Inglis to Kelley Henry providing records in response to 1/3/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
996. Redacted Feb 2022 - Mar 2022 training rosters for lethal injection, redacted email re training requirements for sterile compounding and inventory of lethal drugs, discovery responses, Midazolam and KCI inventory log, training rosters, ordering lethal drugs and supplies, shipments of lethal drugs and supplies, pharmaceutical letters re misuse of products, Redacted Tennessee Board of Pharmacy license and DEA license, [Pharmacy] Invoices, Feb 2020 - Dec 2021 lethal drug inventory logs, potassium chloride and midazolam logs, and Feb 2020 - Oct 2021 Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
997. Redacted June 2021 - Nov 2021 and Jan 2022 - Feb 2022 training rosters for Protocol, lethal injection, electrocution, strap down team, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (132 pages)
998. Redacted June 2021 training rosters for electrocution (and page 2 of lethal injection) and lethal injection training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (20 pages)
999. Redacted July 2020 - June 2021 training rosters for protocol review, lethal injection, electrocution and lethal injection strap down, electrocution, lethal injection, electrocution and lethal injection protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (139 pages)
1000. Draft 3/11/2022 Letter from Debra Inglis responding to 3/2/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1001. Draft March 2022 Letter from Debra Inglis responding to 3/2/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1002. 3/2/2022 Letter from Michael Chavis requesting records re lethal injection, electrocution, and execution produced in *King v. Parker* – Middle District of Tennessee proceedings

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1003. April 2021 - February 2022 Redacted Electric Chair Testing Logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1004. 3/18/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
1005. Redacted 3/8/2022 training rosters for lethal injection and training materials, Redacted Sept 2021 - Feb 2022 Electric Chair testing log, and redacted 3/16/2022 email re an order produced in *King v. Parker* – Middle District of Tennessee proceedings (13 pages)
1006. Draft 3/25/2022 Letter from Debra Inglis responding to 3/18/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1007. 4/26/2022 Email from [Drug Procurer] to [Drug Procurer] attaching picture of unredacted 4/13/2022 lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1008. Unredacted 4/13/2022 lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1009. Unredacted 4/21/2022 inventory logs for drugs and supplies in the refrigerator and cabinet for use in *King v. Parker* – Middle District of Tennessee proceedings
1010. Unredacted 4/21/2022 lethal drugs inventory log for use in *King v. Parker* – Middle District of Tennessee proceedings
1011. Redacted March 2021 - June 2021 training rosters for lethal injection, protocol, electrocution, and training materials, pharmaceutical letters re misuse of product, 8/13/2020 Email re suppliers' inventory of lethal drugs after compounding and attached logs produced in *King v. Parker* – Middle District of Tennessee proceedings (67 pages)
1012. Redacted Feb 20, 2020 - Jan 26, 2021 electric chair testing logs, Feb 2020 - August 2020 lethal drug inventory logs, [Pharmacy] invoices, training rosters May 2020 - July 2020, Oct 2020 and Dec 2020 - March 2021 for protocol review, electrocution, Lethal injection, electrocution strap down, lethal injection strap down, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (134 pages)
1013. 6/28/2021 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution and 7/1/2021 Letter from Debra Inglis

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responding to 6/28/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings

1014. 7/7/2021 Letter from Debra Inglis providing records in response to 6/28/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1015. 2/14/2018 RMSI Death Watch Post Orders, Protester sign-in sheet for David Miller, List of Protesters, surveillance pictures of protesters produced in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
1016. 1/31/2019 Letter from [Drug Procurer] responding 1/1/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1017. 1/29/2019 email from Korey Cooper to [Drug Procurer] attaching, 2/4/2018 redacted and unredacted RMSI Death Watch Post Orders, 1/20/2019 letter from Manday Strickland requesting records re protest at Irick's execution, surveillance pictures of protesters and Protester sign-in sheet for David Miller produced in *King v. Parker* – Middle District of Tennessee proceedings
1018. Redacted 1/3/2018 emails re [Pharmacy] invoices, 2/20/2018 TDOC agreement with provider, 1/22/2018 email re [Pharmacy] invoice, 2018 - 2019 lethal drug inventory logs, TDOC Tennessee Board of Pharmacy license, July and August 2018, Oct 2018, February 2019 and August 2019 [Pharmacy] invoices, Screenshot of TDOC payments to [Pharmacy], 2018 accounts payable records, 11/27/2017 Pharmacy Services Agreement, TDOC - RMSI's Procurement, Preparation, Introduction of the Lethal Injection Chemical, and Procedures of Accountability policies and procedures, rev 7/5/2018, Midazolam storage and preparation instructions, and Potassium Chloride preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
1019. 8/28/2019 draft of letter from Debra Inglis responding to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1020. 10/4/2019 Letter from Debra Inglis providing records in response to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1021. 10/4/2019 draft of letter from Debra Inglis providing records in response to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 1022. 12/14/2018 Letter from Debra Inglis responding to 12/6/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1023. 1/15/2019 Letter from Debra Inglis providing cost for records in response to 12/6/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1024. Redacted Dec 2017 - 2018 lethal drug inventory logs, TDOC [Pharmacy] vendor payments, 2017 - 2018 [Pharmacy] invoices, 11/27/2017 Pharmacy Services Agreement, 2017-2018 Emails re procuring lethal drugs, supplier payments, protocols, supplies received, the use of other potential lethal drugs, and Pharmaceutical letters re misuse of products produced in *King v. Parker* – Middle District of Tennessee proceedings (121 pages)
- 1025. Redacted 12/30/2017 - 2018 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
- 1026. 12/14/2018 draft letter from Debra Inglis responding to 12/6/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1027. 1/15/2019 Letter from Debra Inglis responding to 12/6/2018 request for records with costs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1028. Redacted 7/5/2018, 8/16/2018 and 10/31/2018 [Pharmacy] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
- 1029. 12/6/2018 Letter from Seamus Kelly requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1030. Redacted 2016-2018 electric chair and equipment inspection and testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings (5 pages)
- 1031. Redacted 10/2018 – 12/2018 Training rosters for electrocution protocol, electric chair, and training materials, redacted 2017 -2018 invoices, and electrocution policies and procedures, rev. 7/11/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
- 1032. 12/12/2018 Letter from Debra Inglis responding to 10/22/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

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1033. TDOC Electrocutation policies and procedures, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (88 pages)
1034. Redacted emails and letters re attendance at Zagorski's execution, Internal and External media list for execution, media elections to attend execution, letters/emails from Zagorski's attorney re execution, Zagorski execution affidavits, execution notification letter, Victim services emails and correspondence, Microsoft outlook notifications for visits, emails re visitation, Zagorski note and memo re no family attending execution and last meal, TDOC offender info, and Zagorski request not to have autopsy performed after execution produced in *King v. Parker* – Middle District of Tennessee proceedings (187 pages)
1035. 10/22/2018 Letter from Seamus Kelly requesting records re electric chair and Zagorski's upcoming execution produced in *King v. Parker* – Middle District of Tennessee proceedings
1036. Redacted 11/2016 – 10/2018 Training rosters for electrocution practice, protocol for execution, electrocution and lethal injection, execution, electrocution death watch, electric chair, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (133 pages)
1037. 4/29/2020 Letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1038. 5/6/2020 Letter from [Drug Procurer] encl records in response to 4/9/2020 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1039. Redacted 2/11/2020, 12/20/2019 and 12/6/2019 [Pharmacy] invoices, 9/2019 – 12/2019 emails re [Pharmacy] invoices/payments, lab results, lethal drug sources, procuring lethal drugs, 9/2019 – 2/2020 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (14 pages)
1040. Redacted lethal inventory log for 9/2019 – 12/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
1041. 12/11/2020 Letter from [Drug Procurer] in response to 12/9/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1042. 5/22/2020 Letter from [Drug Procurer] in response to 4/29/2020 follow up request produced in *King v. Parker* – Middle District of Tennessee proceedings

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1043. 6/8/2020 letter from [Drug Procurer] in response to 4/29/2020 additional follow up request produced in *King v. Parker* – Middle District of Tennessee proceedings
1044. Redacted 9/29/2021 email re lethal drug and supply orders, 7/26/2021 lethal drug inventory, Midazolam and potassium chloride Inventory and Use logs produced in *King v. Parker* – Middle District of Tennessee proceedings (8 pages)
1045. 10/9/2021 letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1046. Redacted 7/2020 – 12/2020 Training rosters for electrocution, electrocution and lethal injection protocol review, lethal injection, electrocution and lethal injection strap down team, and training materials, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (122 pages)
1047. Redacted 7/2020 – 12/2020 Training rosters for electrocution, electrocution and lethal injection protocol review, lethal injection, electrocution and lethal injection strap down team, and training materials, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (122 pages)
1048. Redacted Training rosters for electrocution, lethal injection, electrocution and lethal injection protocol review, electrocution and lethal injection strapdown, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (129 pages)
1049. TDOC Electrocution policies and procedures, rev. 3/13/2017, Redacted 7/29/2020 Training rosters for lethal injection and training materials, redacted 7/28/2020 [Pharmacy] Invoice, Redacted 1/2020 – 7/2020 - training rosters for lethal injection, electrocution, protocol, and training

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materials produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)

1050. TDOC policies and procedures re Death Watch, Execution Team, Death Watch Supervisor and Control Monitor, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (11 pages)
1051. 1/15/2021 Letter from [Drug Procurer] in response to 12/9/2020 request for records and enclosing TDOC Lethal Injection Execution Manual, rev. 7/5/2018, and TDOC Electrocutation Execution Manual, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (146 pages)
1052. 12/9/2020 request for records from Rivkin re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
1053. Redacted 2/20/2020 – 11/12/2020 electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1054. 12/9/2020 letter from Rivkin requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
1055. 1/4/2021 Letter from [Drug Procurer] responding to 12/9/2020 request for records with cost info produced in *King v. Parker* – Middle District of Tennessee proceedings
1056. Redacted 1/26/2021 [Pharmacy] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
1057. 6/10/2021 Letter from [Drug Procurer] providing records in response to 6/4/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1058. 6/10/2021 Draft of letter from [Drug Procurer] providing records in response to 6.4.21 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1059. 6/4/2021 request for records from Rivkin re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1060. 8/12/2020 Letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings

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1061. 8/17/2020 Letter from [Drug Procurer] responding to 8/12/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1062. 8/27/2020 draft letter from [Drug Procurer] following up to 8/12/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1063. Redacted 7/28/2020 Invoice from [Pharmacy] and 2/11/2020 and 8/4/2020 Lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1064. Redacted 2/11/2020 and 8/4/2020 Lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1065. 12/11/2020 Letter from [Drug Procurer] responding to 12/9/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1066. 8/18/2020 Letter from Rivkin follow up request for records re lethal drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
1067. Redacted 7/22/2020 email re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
1068. 7/22/2020 email from [Pharmacist] re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
1069. 8/27/2020 letter from [Drug Procurer] following up to 8/12/2020 request for records and enclosing redacted 7/22/2020 email re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
1070. 10/9/2019 Letter requesting records re communications between IDOC and Idaho state actors re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1071. 10/24/2019 Letter from Debra Inglis responding to 10/9/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1072. Redacted Jan 2017 - Dec 2017 training rosters re Execution, Electrocutation and Lethal Injection protocol review, Death Watch, Practice, Protocol

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- Review, Lethal Injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (107 pages)
1073. 6/19/2018 Letter from [Drug Procurer] providing records in partial response to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
1074. 5/9/2018 Letter from [Drug Procurer] responding to records request with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
1075. 7/17/2018 Draft letter from [Drug Procurer] responding to records request with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
1076. 4/12/2018 letter from [Drug Procurer] responding to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
1077. 6/27/2018 request for records re lethal injection and 7/17/2018 response with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
1078. 2/23/2018 request for records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1079. Redacted Jan 2017 - Dec 2017 training rosters re Execution, Electrocutation and Lethal Injection protocol review, Death Watch, Practice, Protocol Review, Lethal Injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (107 pages)
1080. 1/5/2018 Letter from [Drug Procurer] in response to 12/13/2017 request for records and 12/13/2017 and 10/16/2017 records request re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1081. Subpoena to Tony Parker re Ohio Execution Protocol Litigation requesting records re execution documents for Irick and Johnson produced in *King v. Parker* – Middle District of Tennessee proceedings
1082. Redacted Record of Staff Visits, Day of Execution - Lethal Injection Execution Recorder, and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (18 pages)
1083. Redacted Johnson inmate card, Media information and selections for execution, victim services and attendance at execution emails and letters, Affidavits re defense counsel to witness execution and method of

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- execution, Method of Execution letter, Microsoft Outlook notifications re visits, TDOC Offender info and Incident Reports for execution, TDOC visitation records, spiritual advisor at execution selection, records re TDOC preparation for execution, Johnson clemency records, Death Watch logs, 5/9/2019 lethal drug inventory log, Johnson mug shot, and record of staff visits produced in *King v. Parker* – Middle District of Tennessee proceedings. (188 pages)
1084. Affidavit of Records Custodian signed by [Drug Procurer] produced in *King v. Parker* – Middle District of Tennessee proceedings
1085. Redacted Media information and selections for execution of Irick, and letter to counsel requesting info re attorneys on site during death watch produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
1086. Redacted July 2018 - August 2018 training rosters re lethal injection and training materials, Death Watch logs, lethal drugs prescription for Irick, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re defense counsel selection to attend execution and method of execution, Method of execution letter, Day of Execution - Lethal Injection Execution Recorder Checklist, Victim services forms and letters re execution and attendance at execution produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
1087. Redacted Media information and selections for execution of Irick, and letter to counsel requesting info re attorneys on site during death watch produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
1088. Affidavit of Records Custodian signed by [Drug Procurer] produced in *King v. Parker* – Middle District of Tennessee proceedings
1089. 2018 - 2019 Redacted electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1090. Redacted Jan 2018 - emails re [Pharmacy] Invoices, Provider Agreement, July 2018 - November 2018 Lethal drugs inventory logs, May 9, 2019 Midazolam Inventory, Tennessee Board of Pharmacy license, February 2019 - August 2019 [Pharmacy] Invoices, Vendor records, Pharmacy Services Agreement, TDOC policies and procedures re Procurement, Preparation, Introduction of the lethal Injection Chemical and Procedures of Accountability, rev. 7/5/2018, Midazolam storage and preparation instructions and KCL preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)

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1091. 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1092. Draft of 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1093. Draft of 1/13/2020 Letter from Debra Inglis responding to 1/9/2020 follow up request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1094. 11/22/2019 Letter from Debra Inglis providing records in response to 11/1/2019 request, July 2018 - Aug 2019 lethal drug inventory logs, vendor invoices and payments, Feb 2019 - Aug 2019 [Pharmacy] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings (15 pages)
1095. Draft of 9/25/2019 letter from Debra Inglis providing records in response to 8/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1096. 11/22/2019 Draft letter from Debra Inglis providing records in response to 11/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1097. 11/15/2019 Letter from Debra Inglis responding to 11/1/2019 request for additional records produced in *King v. Parker* – Middle District of Tennessee proceedings
1098. 9/17/2019 Letter from Debra Inglis responding to 8/22/2019 request for records with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
1099. 8/22/2019 Letter requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1100. 9/20/2018 filed Motion to Stay Proceedings based on Colorado River Abstention Doctrine and Memo of Law in Support produced in *King v. Parker* – Middle District of Tennessee proceedings
1101. 8/21/2018 Complaint for Injunctive Relief produced in *King v. Parker* – Middle District of Tennessee proceedings
1102. Outline of new website

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- 1103. United States Pharmacopeial Convention guidance
- 1104. [Pharmacy]'s current Texas pharmacy license expiring 4/30/2024
- 1105. Unsigned Pharmacy Services Agreement between [Pharmacy] and TDOC
- 1106. [Pharmacy]'s 6/26/2018 Application to Add License Modifier to Tennessee Board of Pharmacy, attaching [Pharmacist]-in-Charge compounding information, [Pharmacy]'s ownership and management information, Texas Board of Pharmacy disciplinary action and inspection reports, DEA License and List of Reference books
- 1107. 12/8/2017 Letter to Texas State Board of Pharmacy from [Pharmacy] re the pharmacy's suspension of sterile compounding.
- 1108. April 2018 [Pharmacy] Application to Change Pharmacy License Classification to Compounding Sterile Preparations.
- 1109. 11/27/2017 signed Pharmacy Services Agreement between [Pharmacy] and TDOC.
- 1110. 7/18/2018 Billy Ray Irick Prescription for Midazolam
- 1111. List of sterile compounding pharmacies in Tennessee
- 1112. Redacted formula for Midazolam
- 1113. Formula for Midazolam
- 1114. 12/8/2017 Letter to Texas State Board of Pharmacy from [Pharmacy] re the pharmacy's suspension of sterile compounding.
- 1115. April 2018 [Pharmacy] Application to Change Pharmacy License Classification to Compounding Sterile Preparations.
- 1116. Blank order form for Midazolam, Vecuronium Bromide and Potassium Chloride
- 1117. 2016 Texas State Board of Pharmacy Notice of Inspection
- 1118. 2014 Texas Board of Pharmacy Agreed Order for Sun City Compounding, LLC signed by [Former Pharmacy Owner]
- 1119. Information regarding Beyond Use Dates on compounded sterile preparations

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- 1120. Blank sample pharmacy agreement between Riverbend Maximum Security and a [Pharmacist], rev 6/25/2015
- 1121. 6/15/2018 Email from [Former Pharmacy Owner] to [Drug Procurer] enclosing Beyond Use Dating for Sterile Compounding information
- 1122. [Pharmacy]'s Texas pharmacy license expiring 4/30/2018
- 1123. 2016 Texas State Board of Pharmacy Notice of Inspection
- 1124. 5/22/2018 Midazolam method suitability test result
- 1125. 5/11/2018 Midazolam potency, bacterial endotoxins and sterility test results
- 1126. 5/14/2018 Midazolam container closure integrity test result
- 1127. Dashboard reflecting 2017-2019 [Pharmacy] Invoices and payments
- 1128. Redacted [Pharmacy] Invoices
- 1129. 2017 - 2019 [Pharmacy] Invoices
- 1130. [Pharmacy]'s current Texas pharmacy license expiring 4/30/2024
- 1131. [Pharmacy]'s Tennessee pharmacy license expiring 7/31/2022
- 1132. [Pharmacy]'s current DEA license expiring 2/28/2023
- 1133. 2/26/2020 Letter from Hikma Pharmaceuticals objecting to the use of its products in capital punishment and requesting confirmation that TDOC is not in possession of any Hikma/West Ward products
- 1134. 8/15/2019 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession
- 1135. 8/2/2018 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession
- 1136. 8/15/2019 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession

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- 1137. Redacted text messages from Oct 2017 - April 2018 re lethal drugs procurement *produced in response to public records request* (17 pages)
- 1138. Draft 6/10/2019 Letter from Tennessee Office of the Attorney General responding to 6/4/2019 request for records *produced in response to public records request*
- 1139. Redacted 12/2017 Order for Midazolam, Vecuronium Bromide and Potassium Chloride *produced in response to public records request*
- 1140. 11/13/2019 Draft letter from [Drug Procurer] responding to 11/6/2019 request for records with costs *produced in response to public records request*
- 1141. 11/22/2019 Draft letter from [Drug Procurer] responding to 11/6/2019 request for records with costs *produced in response to public records request*
- 1142. Redacted lethal drug procurement handwritten notes *produced in response to public records request* (6 pages)
- 1143. Unredacted April 2017 - April 2018 text messages between [Drug Procurer] and [Former Pharmacy Owner] re lethal drugs procurement *produced in response to public records request* (23 pages)
- 1144. Unredacted September 2019 - December 2019 lethal drug inventory logs *produced in response to public records request*
- 1145. Redacted July 2018 Training rosters for lethal injection, protocol review, and training materials *produced in response to public records request* (25 pages)
- 1146. Redacted April 2017 - April 2018 text messages between [Drug Procurer] and [Former Pharmacy Owner] re lethal drugs procurement *produced in response to public records request* (23 pages)
- 1147. 8/13/2018 Letter from Debra Inglis requesting the return of documents provided in response to public record requests that have led to the discovery of individuals/entities involved in the lethal execution process *produced in response to public records request*
- 1148. 4/15/2019 Letter from Debra Inglis responding to 3/28/2019 request for records with costs *produced in response to public records request*
- 1149. 2/18/2022 Draft Letter from Debra Inglis responding to 2/11/2022 request for records *produced in response to public records request*

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- 1150. 4/4/2022 Draft Letter from Debra Inglis responding to 3/18/2022 request for records *produced in response to public records request*
- 1151. 3/3/2022 Draft Letter from Debra Inglis responding to 3/2/2022 request for records *produced in response to public records request*
- 1152. 6/8/2020 Draft Letter from Debra Inglis responding to 5/29/2020 request for records with cost *produced in response to public records request*
- 1153. March 2022 Draft Letter from Debra Inglis responding to 3/2/2022 request for records *produced in response to public records request*
- 1154. 2/12/2018 Draft Letter from [Drug Procurer] responding to request for records received 2/6/2018 and asking for the requester to narrow the scope *produced in response to public records request*
- 1155. Redacted Feb 2017 - Sept 2017 emails re lethal drug procurement, 9/1/2016 Authorization to dispense Prescriptions for Schedule II Controlled Substances, Declaration regarding chemical products intended use, Aug 2015 and Feb 2017 - July 2017 redacted training rosters re lethal injection, Electrocution, Death Watch, Execution protocols for lethal injection and electrocution, and training materials, and Execution Procedures for Electrocution, rev Mar 13, 2017 *produced in response to public records request*
- 1156. Unredacted July 2018 - August 2019 lethal drug inventory logs *produced in response to public records request* (10 pages)
- 1157. Redacted 7/10/2018 Training roster for Execution Protocol *produced in response to public records request*
- 1158. Redacted 6/13/2018 Training roster for lethal injection and training materials *produced in response to public records request* (10 pages)
- 1159. Unredacted 6/13/2018 Training roster for lethal injection and training materials *produced in response to public records request* (10 pages)
- 1160. Redacted 4/13/2022 lethal drugs inventory *produced in response to public records request*
- 1161. Unredacted 12/20/2017 order for Midazolam, Vecuronium Bromide and Potassium Chloride, TDOC DEA licenses and Unredacted 2017 [Pharmacy] Invoices for lethal drugs signed as received by TDOC staff *produced in response to public records request* (8 pages)

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- 1162. 11/3/2021 request for records re lethal injection, electrocution and execution *produced in response to public records request*
- 1163. Redacted April 2021 - Oct 2021 Electric chair testing logs, July 2021 - Nov 2021 Training rosters re Protocol Review, Lethal Injection, Electrocution, Strap down team, and training materials, redacted July 2021 - emails re training logs, docs needed for discovery responses, lethal drugs and supply procurement, Tennessee Board of Pharmacy license, DEA license, Inventory and Use logs for Potassium Chloride, Midazolam, and 7/26/2021 lethal drug inventory logs *produced in response to public records request* (127 pages)
- 1164. Unredacted 7/26/2021 lethal drug inventory log *produced in response to public records request*
- 1165. Unredacted 7/26/2021 lethal drug inventory log *produced in response to public records request*
- 1166. 11/15/2021 letter from Debra Inglis responding to 11/3/2021 request for records *produced in response to public records request*
- 1167. 1/12/2022 Request for records re lethal injection *produced in response to public records request*
- 1168. 1/31/2022 Email from [Drug Procurer] to Robert Reburn enclosing responsive docs to records request *produced in response to public records request*
- 1169. Redacted Nov 2021 - emails re lethal drugs and supplies procurement, redacted 11/30/2021 [Pharmacy] Invoice and redacted lethal drugs inventory log *produced in response to public records request*
- 1170. 3/1/2022 Email from [Drug Procurer] enclosing 3/1/2022 email from [Drug Procurer] to Robert Reburn with docs responsive to records request *produced in response to public records request*
- 1171. Redacted Nov 2021 - Emails re lethal drugs procurement, Redacted Oct 2021 - Feb 2022 Training rosters re protocol, Electrocution, Lethal Injection, Strap down Team, and training materials *produced in response to public records request*
- 1172. 2/9/2022 Email from Robert Reburn to [Drug Procurer] forwarding follow up request for records *produced in response to public records request*
- 1173. Redacted lethal drugs inventory log *produced in response to public records request*

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- 1174. 3/8/2022 Email from Robert Reburn to [Drug Procurer] forwarding 3/8/2022 request for records re lethal injection *produced in response to public records request*
- 1175. 4/13/2022 Email from [Drug Procurer] to Robert Reburn enclosing responsive docs to request for records *produced in response to public records request*
- 1176. Redacted March 2022 - April 2022 Emails re lethal drugs and supplies procurement *produced in response to public records request*
- 1177. 4/6/2022 request for records re lethal injection *produced in response to public records request*
- 1178. Unredacted March 2022 - April 2022 Emails between [Drug Procurer] and [Pharmacist] re lethal drugs and supplies procurement *produced in response to public records request*
- 1179. 5/3/2022 Email from Robert Reburn to [Drug Procurer] forwarding request for records *produced in response to public records request*
- 1180. Redacted April 2022 - May 2022 Emails re lethal drugs procurement and supplies, executions, and Oscar Smith reprieve, sterile compounding info, Redacted 4/12/2022 [Pharmacy] Invoice, Tennessee Board of Pharmacy license and DEA license, 4/21/2022 text message inquiring about whether chemicals needed to be maintained in the event of a challenge, 5/11/2022 email attaching text messages re Smith's reprieve, 4/21/2022 text messages re lethal drugs and preserving the drugs, April 2022 text messages re lethal drugs and testing reports, 4/21/2022 text messages re halting lethal drugs preparation, 5/11/2022 Inventory & Use logs for Midazolam and Potassium Chloride, and 4/13/2022 and 4/21/2022 lethal drugs inventory logs *produced in response to public records request*
- 1181. 5/12/2022 request for records re lethal drugs *produced in response to public records request*
- 1182. 5/31/2022 Email from Robert Reburn to [Drug Procurer] forwarding 5/12/2022 records request re lethal drugs *produced in response to public records request*
- 1183. 6/8/2022 Email from Robert Reburn to [Drug Procurer] forwarding follow up request for records *produced in response to public records request*
- 1184. Redacted text messages re lethal drugs preparation, 4/21/2022 lethal drugs inventory logs, Smith Reprieve, 10/22/2018 entered Order setting

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Zagorski's execution date and 5/12/2022 redacted emails re training  
*produced in response to public records request*

- 1185. April 13, 2022 unredacted lethal drugs inventory log *produced in response to public records request*
- 1186. 3/23/2022 Email from [Drug Procurer] to Dorinda Carter enclosing records responsive to request *produced in response to public records request*
- 1187. Redacted 3/16/2022 emails re lethal drugs procurement, 11/30/2021 [Pharmacy] Invoice and lethal drugs inventory log *produced in response to public records request*
- 1188. 3/22/2022 Email from Dorinda Carter to [Drug Procurer] forwarding 3/16/2022 request for records re lethal drugs *produced in response to public records request*
- 1189. Unredacted Jan 2022 - April 2022 emails between [Drug Procurer] and [Pharmacist] re [Pharmacy] invoices and lethal drugs procurement, 11/30/2021 and 4/12/2022 [Pharmacy] Invoices and 4/13/2022 lethal drugs inventory log *produced in response to public records request*
- 1190. Subpoena to Tony Parker re Ohio Execution Protocol Litigation requesting records re execution documents for Irick and Johnson *produced in response to public records request*
- 1191. Redacted Record of Staff Visits, Day of Execution - Lethal Injection Execution Recorder, and TDOC Incident Report for Charles Walton Wright *produced in response to public records request*
- 1192. Redacted Johnson inmate card, Media information and selections for execution, victim services and attendance at execution emails and letters, Affidavits re defense counsel to witness execution and method of execution, Method of Execution letter, Microsoft Outlook notifications re visits, TDOC Offender info and Incident Reports for execution, TDOC visitation records, spiritual advisor at execution selection, records re TDOC preparation for execution, Johnson clemency records, Death Watch logs, 5/9/2019 lethal drug inventory log, Johnson mug shot, and record of staff visits *produced in response to public records request.*
- 1193. Affidavit of Records Custodian signed by [Drug Procurer] *produced in response to public records request*
- 1194. Redacted Media information and selections for execution, and letter to counsel requesting info re attorneys on site during death watch *produced in response to public records request*

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1195. Redacted July 2018 - August 2018 training rosters re lethal injection and training materials, Death Watch logs, lethal drugs prescription for Irick, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re defense counsel selection to attend execution and method of execution, Method of execution letter, Day of Execution - Lethal Injection Execution Recorder Checklist, Victim services forms and letters re execution and attendance at execution *produced in response to public records request*
1196. Redacted Media information and selections for execution, and letter to counsel requesting info re attorneys on site during death watch *produced in response to public records request*
1197. Affidavit of Records Custodian signed by [Drug Procurer] *produced in response to public records request*
1198. 2018 - 2019 Redacted electric chair testing logs *produced in response to public records request*
1199. 12/3/2018 email from Neysa Taylor forwarding request for electric chair testing records *produced in response to public records request*
1200. Text messages re lethal drugs and prep *produced in response to public records request (7 pages)*
1201. Text messages re lethal drugs and prep *produced in response to public records request (7 pages)*
1202. Text messages re lethal drugs and prep *produced in response to public records request (3 pages)*
1203. Text messages re lethal drugs and prep *produced in response to public records request*
1204. Text messages re lethal drugs and prep *produced in response to public records request*
1205. Text messages re lethal drugs and prep *produced in response to public records request*
1206. Text message re preserving evidence *produced in response to public records request*
1207. Letter responding to TPRA re records for scheduled execution of Smith *produced in response to public records request*

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- 1208. Training logs and materials, 4/21/2022 drug inventory, 4/12/2022 [Pharmacy] invoice for drugs, emails between [Drug Procurer] and [Pharmacist] *produced in response to public records request* (44 pages)
- 1209. Training logs and materials, 4/21/2022 drug inventory, 4/12/2022 [Pharmacy] invoice for drugs, emails between [Drug Procurer] and [Pharmacist] *produced in response to public records request* (44 pages)
- 1210. Open records requests from media, TDOC policies and procedures re TPRA, form for requesting records and blank forms. *produced in response to public records request*
- 1211. Training logs and materials *produced in response to public records request* (114 pages)
- 1212. Training logs and materials *produced in response to public records request* (112 pages)
- 1213. Emails and text messages re Smith on death watch and status of execution *produced in response to public records request* (26 pages)
- 1214. Reprieve docs, emails and text messages *produced in response to public records request* (7 pages)
- 1215. Reprieve docs, emails and text messages *produced in response to public records request* (7 pages)
- 1216. Template for responses to media seeking TPRA re Smith *produced in response to public records request*
- 1217. TPRA request for records re Smith's execution *produced in response to public records request*
- 1218. 4/26/2022 Letter from counsel for Harold Wayne Nichols req recs related to Smith's 4/21/2022 execution date, permission to inspect and photograph items and request re Nichols' pending execution *produced in response to public records request*
- 1219. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request seeking records re Oscar Smith's execution *produced in response to public records request*
- 1220. 4/25/2022 Letter from Federal Public Defender's seeking records re Oscar Smith's execution *produced in response to public records request*

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1221. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request seeking records re Oscar Smith's execution *produced in response to public records request*
1222. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request *produced in response to public records request*
1223. Debbie Inglis emails preserved per Order *produced in response to public records request* (100 pages)
1224. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
1225. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
1226. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
1227. Delegation Authority Amendments for Execution related services in 2019 *produced in response to public records request* (14 pages)
1228. Delegation Authority Amendments for Execution related services in 2018 *produced in response to public records request* (9 pages)
1229. Delegated Authority for Execution related services in 2022 *produced in response to public records request* (7 pages)
1230. Delegated Authority for Execution related services in 2021 *produced in response to public records request* (7 pages)
1231. Delegated Authority for Execution related services in 2020 *produced in response to public records request* (7 pages)
1232. Redacted Inmate clothing card *produced in response to public records request*
1233. Inmate clothing card *produced in response to public records request*
1234. Redacted Death watch logs *produced in response to public records request* (5 pages)
1235. Death watch logs *produced in response to public records request* (5 pages)
1236. Redacted Death watch logs *produced in response to public records request* (5 pages)

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- 1237. Death watch logs *produced in response to public records request* (5 pages)
- 1238. Redacted Death watch logs *produced in response to public records request* (6 pages)
- 1239. Death watch logs *produced in response to public records request* (6 pages)
- 1240. Redacted Record of staff visits *produced in response to public records request* (7 pages)
- 1241. Record of staff visits *produced in response to public records request* (7 pages)
- 1242. Redacted TDOC disciplinary record, Inmate Grievance records, Emails re execution day parking and email re other offenders *produced in response to public records request* (8 pages)
- 1243. TDOC disciplinary record, Inmate Grievance records, Emails re execution day parking and email re other offenders *produced in response to public records request* (8 pages)
- 1244. Redacted Electric chair testing log *produced in response to public records request*
- 1245. Electric chair testing log *produced in response to public records request*
- 1246. Redacted Visitation records *produced in response to public records request* (22 pages)
- 1247. Visitation records *produced in response to public records request* (22 pages)
- 1248. TDOC execution day parking document *produced in response to public records request* (6 pages)
- 1249. TDOC offender info *produced in response to public records request*
- 1250. Inmate inquiry forms and property inventories *produced in response to public records request* (10 pages)
- 1251. Redacted Refusal of medical services and TDOC medical history form *produced in response to public records request* (4 pages)
- 1252. Refusal of medical services and TDOC medical history form *produced in response to public records request* (4 pages)

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1253. Redacted Spiritual advisor records *produced in response to public records request* (44 pages)
1254. Spiritual advisor records *produced in response to public records request* (44 pages)
1255. Last meal request *produced in response to public records request*
1256. Redacted Email encl Smith's Method of Execution and notification letter *produced in response to public records request* (3 pages)
1257. Email encl Smith's Method of Execution and notification letter *produced in response to public records request* (3 pages)
1258. Smith orders and filings *produced in response to public records request* (64 pages)
1259. Redacted Sheriff attendance at execution records *produced in response to public records request* (7 pages)
1260. Sheriff attendance at execution records *produced in response to public records request* (7 pages)
1261. Redacted Attorney general attendance at execution records *produced in response to public records request* (3 pages)
1262. Attorney general attendance at execution records *produced in response to public records request* (3 pages)
1263. Redacted Email encl letters to be mailed to victims' family members re execution *produced in response to public records request* (44 pages)
1264. Email encl letters to be mailed to victims' family members re execution *produced in response to public records request* (44 pages)
1265. Redacted Letters to Smith's counsel, Affidavit to Select Defense Counsel Witness to Execution and emails re legal visits *produced in response to public records request* (14 pages)
1266. Letters to Smith's counsel, Affidavit to Select Defense Counsel Witness to Execution and emails re legal visits *produced in response to public records request* (14 pages)

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- 1267. Redacted Records re media and communications personnel on execution day *produced in response to public records request* (13 pages)
- 1268. Records re media and communications personnel on execution day *produced in response to public records request* (13 pages)
- 1269. Text messages re chemicals and execution preparation *produced in response to public records request* (3 pages)
- 1270. Delegations of Authority for execution related services, training logs and materials, drug inventory logs, drug invoice, pharmacy records, emails re drugs, media lottery recs for witnessing execution, emails re visits from counsel, victim service records, letters re election to attend execution, Smith orders and filings, Affidavit Concerning Method of Execution, notification letter, last meal inquiry form, spiritual advisor forms and records, Inmate Inquiry forms, personal property log, Tool Inventory, TDOC Offender info, visitation records, TDOC disciplinary records, Inmate Grievances, Death watch logs, Inmate clothing card and record of staff visits *produced in response to public records request* (361 pages)
- 1271. [Pharmacy] Midazolam inventory, 3/7/2018 – 4/5/2022 *produced in response to public records request* (4 pages)
- 1272. Midazolam inventory, 3/7/2018 – 4/5/2022 and Potassium Chloride inventory, 7/8/2019 – 10/11/2021 *produced in response to public records request* (12 pages)
- 1273. Reprieve records and emails, text messages re drugs *produced in response to public records request* (15 pages)
- 1274. 4/21/2022 emails attaching Zagorski order setting execution date and Zagorski reprieve *produced in response to public records request*
- 1275. Sterile compounding records *produced in response to public records request* (18 pages)
- 1276. Spiritual advisor records, NDA for spiritual advisor, letters, inmate inquiry forms, inmate personal property logs, TDOC offender info, visitation records, TDOC disciplinary records, Inmate Grievance records, Death watch logs and Record of staff visits *produced in response to public records request* (96 pages)
- 1277. Training materials and logs, lethal drug inventories, invoice for drugs, Tennessee Pharmacy license, DEA card, emails re drug orders, media lottery drawing records, letter to counsel re execution, emails re legal visits, Victim services records, Smith orders and filings, Affidavits re

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- counsel attending execution and method of execution, notification letter and last meal inmate inquiry *produced in response to public records request* (147 pages)
1278. Delegations of Authority for execution related services, training logs and materials *produced in response to public records request* (118 pages)
1279. Delegations of Authority for execution related services, training logs and materials *produced in response to public records request* (118 pages)
1280. 5/13/2022 draft letter from Debra Inglis providing records in response to 5/12/2022 request re Oscar Smith's scheduled execution
1281. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/22/2022 request re Oscar Smith's scheduled execution *produced in response to public records request*
1282. Finley, Keefe, Kruesi, Loller, Timms and Vaughan responsive docs to TPRA requests for Oscar Smith and executions enclosing redacted May-April 2022 emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted April 2022 emails re Zagorski's order setting execution date and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, lethal drug lab results *produced in response to public records request* (161 pages)
1283. Finley, Keefe, Kruesi, Loller, Timms and Vaughan responsive docs to TPRA requests for Oscar Smith and executions enclosing redacted May-April 2022 emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted April 2022 emails re Zagorski's order setting execution date and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, lethal drug lab results *produced in response to public records request* (161 pages)

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1284. 5/13/2022 draft letter from Debra Inglis providing test results re Midazolam and Potassium Chloride for Oscar Smith's execution *produced in response to public records request*
1285. 5/13/2022 draft letter from Debra Inglis responding to 5/11/2022 request for records *produced in response to public records request*
1286. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/21/2022 request re Oscar Smith's scheduled execution *produced in response to public records request*
1287. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/22/2022 request re executions *produced in response to public records request*
1288. 5/13/2022 letter from Debra Inglis responding to 4/25/2022 request for records with cost *produced in response to public records request*
1289. 5/13/2022 draft letter from Debra Inglis responding to 4/25/2022 request for records with cost *produced in response to public records request*
1290. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/25/2022 request for records *produced in response to public records request*
1291. Redacted April 2021 - Feb 2022 Electric chair testing logs, redacted Feb 2022 - April 2022 Training rosters re electrocution, lethal injection, protocol, and training materials, April 2022 lethal drug inventory log, 4/12/2022 redacted [Pharmacy] invoice, Tennessee Board of Pharmacy and DEA license, March - April 2022 redacted emails re lethal drugs and supplies procurement, Media selections and Info for Smith's execution, Smith's Affidavit re defense counsel selection at execution, April 2022 emails re Smith attorney visitation, Victim services letters and emails re attendance at Smith's execution *produced in response to public records request* (428 pages)
1292. Victim services letters re attendance at Smith's execution, Orders and filings re Oscar Smith, Affidavit re method of execution, letter re method of execution, last meal request, Smith's Spiritual Advisor NDA and records *produced in response to public records request* (75 pages)
1293. Redacted letters, inmate inquiries, forms and emails re religious accommodations, visitations and attendance for Smith's execution, inmate inquiries re disposition of Smith's belongings after death, Smith's property and tool inventory, TDOC offender info, Microsoft outlook notification for

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visits, TDOC disciplinary records, Smith Grievance docs, Death Watch logs, Smith clothing card, Record of Staff Visits, and USP Pharmaceutical Compounding bulletin *produced in response to public records request* (122 pages)

1294. USP Pharmaceutical Compounding bulletin, Midazolam storage and preparation instructions, Potassium Chloride preparation instructions, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, Inventory and Use for Midazolam and Potassium Chloride, sterile compounding guidelines, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (83 pages)
1295. Records in response to Federal Public Defender's request for records per TPRA for Smith and lethal drug lab results *produced in response to public records request*
1296. Pharmaceutical compounding, Midazolam and Potassium Chloride protocols, emails, Reprieve info, text messages, drug inventories, sterile compounding docs *produced in response to public records request*
1297. Memorandum re religious accommodations, letters re upcoming execution, Inmate inquiry forms, emails, Smith's personal property logs, Tool inventories, TDOC offense info, visitation records, TDOC Disciplinary records, Grievance records, Death watch records, TDOC clothing card, Record of staff visits, pharmaceutical compounding *produced in response to public records request*
1298. Letters re attendance at execution, Orders and filings, emails, Affidavit Concerning Method of Execution, Notification letter, Last meal request, NDA for spiritual advisor *produced in response to public records request*
1299. Electric chair testing logs, training logs and materials, drug inventories and purchase invoice, Tennessee Pharmacy license, DEA card, emails re lethal drugs, media lottery drawing for attendance at execution records, victim records *produced in response to public records request*
1300. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (20 pages)

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1301. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019 *produced in response to public records request (50 pages)*
1302. 5/13/2022 letter from Debra Inglis enclosing records re lethal drugs testing results, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith *produced in response to public records request (20 pages)*
1303. 5/13/2022 letter from Debra Inglis responding to 5/11/2022 request for records *produced in response to public records request*
1304. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith *produced in response to public records request (20 pages)*
1305. 5/13/2022 letter from Debra Inglis enclosing records re execution, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019 *produced in response to public records request (44 pages)*
1306. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request (7 pages)*

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- 1307. Notepad doc *produced in response to public records request*
- 1308. Recs re temperature in the refrigerator storing lethal drugs from 4/13/2022 - 4/21/2022 *produced in response to public records request*
- 1309. Notepad doc *produced in response to public records request*
- 1310. Recs re temperature in the refrigerator storing lethal drugs from 2/25/2022 - 4/21/2022 *produced in response to public records request*
- 1311. 8/24/2018 Letter from Debra Inglis requesting that inadvertently disclosed confidential records through the TPRA be returned pursuant to Rule 4.4(b) of the Rules of Professional Conduct *produced in response to public records request*
- 1312. 9/10/2018 Letter from Debra Inglis in response to 9/4/2018 Letter and requesting return of documents within 7 days *produced in response to public records request*
- 1313. 8/30/2018 Letter from Kelley Henry responding to 8/24/2018 Letter indicating they are not in violation of Rule 4.4(b) and are reviewing the request *produced in response to public records request*
- 1314. Track02 (*Purported audio files, but provided as Notepad doc that cannot be played*) *produced in response to public records request*
- 1315. Track01 (*Purported audio files, but provided as Notepad doc that cannot be played*) *produced in response to public records request*
- 1316. Redacted Jan 2018 - emails re [Pharmacy] Invoices, Provider Agreement, July 2018 - November 2018 Lethal drugs inventory logs, May 9, 2019 Midazolam Inventory, Tennessee Board of Pharmacy license, February 2019 - August 2019 [Pharmacy] Invoices, Vendor records, Pharmacy Services Agreement, TDOC policies and procedures re Procurement, Preparation, Introduction of the lethal Injection Chemical and Procedures of Accountability, rev. 7/5/2018, Midazolam storage and preparation instructions and KCL preparation instructions *produced in response to public records request* (61 pages)
- 1317. 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records *produced in response to public records request*
- 1318. Draft of 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records *produced in response to public records request*

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- 1319. 8/22/2019 Email from Dorinda Carter forwarding 8/22/2019 request for records re lethal injection *produced in response to public records request*
- 1320. Draft of 1/13/2020 Letter from Debra Inglis responding to 1/9/2020 follow up request for records *produced in response to public records request*
- 1321. 11/22/2019 Letter from Debra Inglis providing records in response to 11/1/2019 request, July 2018 - Aug 2019 lethal drug inventory logs, vendor invoices and payments, Feb 2019 - Aug 2019 [Pharmacy] Invoices *produced in response to public records request*
- 1322. Draft of 9/25/2019 letter from Debra Inglis providing records in response to 8/22/2019 request *produced in response to public records request*
- 1323. 11/22/2019 Draft letter from Debra Inglis providing records in response to 11/1/2019 request *produced in response to public records request*
- 1324. 11/15/2019 Letter from Debra Inglis responding to 11/1/2019 request for additional records *produced in response to public records request*
- 1325. 9/17/2019 Letter from Debra Inglis responding to 8/22/2019 request for records with cost *produced in response to public records request*
- 1326. 8/22/2019 Letter requesting records re lethal injection *produced in response to public records request*
- 1327. Delegation Authority Amendments for Execution related services in 2019
- 1328. Delegation Authority Amendments for Execution related services in 2018
- 1329. Delegated Authority for Execution related services in 2022
- 1330. Delegated Authority for Execution related services in 2021
- 1331. Delegated Authority for Execution related services in 2020

## **Documents from TNAG**

- 1. 6/8/2022 Letter from Dianna Baker Shew
- 2. Lethal Injection training documents (1162 pages)
- 3. Testing Reports (69 pages)
- 4. 11/27/2017 Pharmacy Services Agreement (5 pages)

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5. Execution Procedures for Lethal Injection, rev 6/25/2015 (97 pages)
6. Ledger pages (38 pages)
7. Billy Irick and Donnie Johnson Chemical prep records (8 pages)  
Handwritten death watch logs for Irick, Johnson, Miller and Zagorski (315 pages)
8. 7/20/2020 Memorandum Opinion in *King v. Parker* case, granting in part, denying in part Plaintiff's motion to compel and Defendants' motion for protective order
9. 7/20/2020 Order in *King v. Parker* case, re Plaintiff's motion to compel and Defendants' motion for protective order
10. 7/19/21 Deposition transcript of [Drug Procurer] in *King v. Parker* case.
11. 11/18/2019 Email, Subject: Update Lab report
12. 5/15/2019 Email, Subject: This is big! DOJ opinion on FDA
13. 7/15/2019 Email, Subject [Pharmacy] True Up
14. 8/8/2019 Email, Subject Suitability Test
15. 11/20/2019 Email, Subject see attached
16. 8/15/2019 Email, Subject Scanned from a Xerox [Pharmacy] Pharmacy.pdf
17. 7/10/2019 Email, Subject RX
18. 8/9/2019 Email, Subject results
19. 12/5/2019 Email, Subject Report
20. 5/9/2019 Email, Subject report
21. 7/24/2019 Email, Subject Report
22. 7/31/2019 Email, Subject Report
23. 5/15/2019 Email, Subject RE: This is big! DOJ Opinion on FDA
24. 5/15/2019 Email, Subject RE: This is big! DOJ Opinion on FDA

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25. 1/29/2019 Email, Subject RE: product
26. 1/29/2019 Email, Subject Re: product
27. 1/29/2019 Email, Subject Re: product
28. 4/29/2019 Email, Subject RE: Potency report
29. 8/8/2019 Email, Subject RE: kcl protocol
30. 7/2/2019 Email, Subject RE: kcl protocol
31. 5/9/2019 Email, Subject RE: Invoices
32. 5/9/2019 Email, Subject Re: Invoices
33. 5/9/2019 Email, Subject Re: Invoices
34. 4/3/2019 Email, Subject RE: follow up
35. 7/29/2019 Email, Subject RE: Declaration
36. 7/26/2019 Email, Subject RE: Declaration
37. 7/29/2019 Email, Subject RE: Declaration
38. 10/30/2019 Email, Subject RE: API
39. 10/30/2019 Email, Subject RE: API
40. 12/20/2019 Email, Subject Re: [EXTERNAL] New invoice
41. 12/20/2019 Email, Subject Re: [EXTERNAL] New invoice
42. 6/26/2019 Email, Subject Proposed Alternative
43. 1/29/2019 Email, Subject product
44. 4/29/2019 Email, Subject Potency report
45. 2/26/2019 Email, Subject New Invoice
46. 11/26/2019 Email, Subject Lab results
47. 8/8/2019 Email, Subject KCI

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48. 8/8/2019 Email, Subject kcl protocol
49. 6/26/2019 Email, Subject KCI Protocol
50. 6/26/2019 Email, Subject kcl protocol
51. 6/26/2019 Email, Subject KCI
52. 9/19/2019 Email, Subject Invoices
53. 5/9/2019 Email, Subject Invoices
54. 8/7/2019 Email, Subject Invoices
55. 6/26/2019 Email, Subject <http://leucadiapharma.com/anti-capital-punishment-statement/>
56. 7/2/2019 Email, Subject Fwd: kcl protocol
57. 6/28/2019 Email, Subject Fwd: kcl protocol
58. 9/24/2019 Email, Subject Fwd: Invoices
59. 5/16/2019 Email, Subject FW: [Pharmacy]
60. 10/29/2019 Email, Subject FW: potassium
61. 5/13/2019 Email, Subject FW: Midazolam
62. 7/2/2019 Email, Subject FW: kcl protocol
63. 4/2/2019 Email, Subject follow up
64. 12/3/2019 Email, Subject FedEx Shipment 777137874130: Delivery scheduled for tomorrow
65. 12/4/2019 Email, Subject FedEx Shipment 777137874130: Delivery scheduled for today
66. 12/4/2019 Email, Subject FedEx Shipment 777137874130: Delivered
67. 11/26/2019 Email, Subject FedEx Shipment 777076577054: Scheduled delivery update

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68. 11/25/2019 Email, Subject FedEx Shipment 777076577054: Delivery scheduled for tomorrow
69. 11/26/2019 Email, Subject FedEx Shipment 777076577054: Delivery scheduled for today
70. 11/25/2019 Email, Subject FedEx MPS Shipment 777076577054 Notification
71. 11/26/2019 Email, Subject FedEx MPS Shipment 777076577054 Delivered
72. 7/25/2019 Email, Subject Fed Executions
73. 8/12/2019 Email, Subject ETX-190806-0007-LabReport.pdf
74. 7/26/2019 Email, Subject Declaration
75. 12/20/2019 Email, Subject Automatic reply: New Invoice
76. 10/30/2019 Email, Subject API
77. 11/21/2019 Email, Subject Alternatives
78. 8/12/2019 Email, Subject 2019-18034.pdf
79. 12/3/2019 Email, Subject Update
80. Text messages on [Drug Procurer] cell phone from 4/6/2017 – 6/27/2018
81. Text messages on [Drug Procurer] cell phone from 7/3/2018 – 9/26/2018
82. Text messages on [Drug Procurer] cell phone from 10/24/18 – 7/11/19
83. Text messages on [Drug Procurer] cell phone from 7/31/19 – 1/6/2020
84. Text messages on [Drug Procurer] cell phone from 1/7/2020 – 5/26/2022
85. Declaration of Sarah B. Miller in Support of Plaintiff's Motion filed 4/13/2022 in the *King v. Parker* case.
86. Affidavit of John Gardiner pursuant to 28 U.S.C. Sec 1746 dated 4/11/2022 in the *King v. Parker* case.
87. Declaration of Joel Zivot, MD filed 11/21/2018 in the *King v. Parker* case.

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88. Declaration of TDOC Employee dated 12/19/2019 in the *King v. Parker* case.
89. Sworn Statement of Debra K. Inglis dated 2/14/2022 in the *King v. Parker* case.
90. Declaration of Larry D. Sasich dated 10/2/2018 in the *King v. Parker* case.
91. Declaration of RMSI Officer dated 7/30/2019 in the *King v. Parker* case.
92. Declaration of RMSI Mental Health Professional dated 7/29/2019 in the *King v. Parker* case.
93. Declaration of RMSI Employee dated 12/19/2019 in the *King v. Parker* case.
94. Declaration of the President of Pharmacy Z dated 3/31/2020 in the *King v. Parker* case.
95. Declaration of Tony C. Parker dated 10/5/2021 in the *King v. Parker* case.
96. Declaration of David A. Lubarsky, MD dated 9/2/2018 in the *King v. Parker* case.
97. Sworn Statement of Damon Lawrence dated 3/16/2022 in the *King v. Parker* case.
98. Sworn Statement of Debra K. Inglis dated 12/1/2021 in the *King v. Parker* case.
99. Deposition transcript of Gourang P. Patel, Pharm. D. taken on 2/11/2022 in the *King v. Parker* case.
100. Deposition transcript of Joseph Antognini, M.D. taken on 1/28/2022 in the *King v. Parker* case.
101. Deposition transcript of Feng Li, M.D., J.D., Ph.D. taken on 2/3/2022 in the *King v. Parker* case.
102. Defendants 2nd Interrogatories, Request for Production and Request for Admission dated 9/21/2021 in the *King v. Parker* case. (139 pages)
103. Mays Supplemental Responses to Interrogatories and Request for Production dated 8/19/2020 in the *King v. Parker* case. (226 pages)

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104. Supplemental Responses dated 3/10/22 in the *King v. Parker* case. (77 pages)
105. Supplemental Responses to Request for Production dated 2/14/2022 in the *King v. Parker* case. (259 pages)
106. Defendants Supplemental Responses to Discovery dated 11/17/2021 in the *King v. Parker* case. (7,802 pages)
107. Defendants Supplemental Responses to Discovery dated 11/18/2021 in the *King v. Parker* case. (38 pages)
108. Defendants' Supplemental Responses to Request for Production dated 2/22/2022 in the *King v. Parker* case. (257 pages)
109. Defendants' Supplemental Responses to Request for Production dated 4/5/2022 in the *King v. Parker* case. (31 pages)
110. Initial Disclosures of Defendant in the *King v. Parker* case. (2,189 pages)
111. Defendants' First Supplemental Responses to Request for Production in the *King v. Parker* case. (54 pages)
112. Defendants first response to Request for Production of Documents in the *King v. Parker* case. (1,292 pages)
113. 2013 - 2019 Autopsy Reports from different states of executed offenders in the *King v. Parker* case. (250 pages)
114. Defendants' Supplemental responses to Request for Production dated 12/1/2021 in the *King v. Parker* case. (13 pages)
115. 84 pictures of the death chambers, witness room and lethal injection tubing in the *King v. Parker* case
116. 2/14/2022 Sworn Statement of Debra K. Inglis in the *King v. Parker* case
117. 3/16/2022 Sworn Statement of Damon Lawrence in the *King v. Parker* case
118. 12/1/2021 Sworn Statement of Debra K. Inglis in the *King v. Parker* case
119. 4/13/2022 Declaration of Sarah B. Miller in Support of Plaintiff's Motion in the *King v. Parker* case
120. 11/17/2021 Expert Report of Dr. Michaela Almgren in the *King v. Parker* case

121. 1/14/2022 Supplemental Expert Report of Dr. Michaela Almgren in the *King v. Parker* case
122. 2/4/2022 Full Deposition Transcript of Dr. Michaela Almgren in the *King v. Parker* case
123. Exhibit 1 – 1/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Almgren Deposition Transcript in the *King v. Parker* case
124. Exhibit 2 – 11/17/2021 Expert Report of Dr. Michaela Almgren to Dr. Almgren Deposition Transcript in the *King v. Parker* case
125. Exhibit 3 – 1/14/2022 Supplemental Expert Report of Dr. Michaela Almgren to Dr. Almgren Deposition Transcript in the *King v. Parker* case
126. Exhibit 4 - Lethal Injection Execution Manual, rev 7/5/2018 to Dr. Almgren Deposition Transcript in the *King v. Parker* case
127. 2/4/2022 Condensed Deposition Transcript of Dr. Michaela Almgren in the *King v. Parker* case
128. 11/17/2021 Expert Report of Dr. Charles David Blanke in the *King v. Parker* case
129. 1/18/2022 Full Deposition Transcript of Dr. Blanke in the *King v. Parker* case
130. Exhibit 1 - 12/4/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
131. Exhibit 2 – 11/17/2021 Expert Report of Dr. Charles David Blanke to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
132. Exhibit 3 – 10/2/2020 Death with Dignity: The Oregon Experience and Future Implications PowerPoint slides to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
133. Exhibit 4 - Oregon Death with Dignity Act 2020 Data Summary to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
134. 1/18/2022 Condensed Deposition Transcript of Dr. Blanke in the *King v. Parker* case

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135. 1/18/2022 (Corrected) Full Deposition Transcript of Dr. Blanke in the *King v. Parker* case
136. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
137. Exhibit 2 – 11/17/2021 Expert Report of Dr. Charles David Blanke to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
138. Exhibit 3 – 10/2/2020 Death with Dignity: The Oregon Experience and Future Implications PowerPoint slides to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
139. Exhibit 4 - Oregon Death with Dignity Act 2020 Data Summary to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
140. 1/18/2022 (Corrected) Condensed Deposition Transcript of Dr. Blanke in the *King v. Parker* case
141. 1/14/2022 Full Deposition Transcript of Craig W. Stevens, Ph. D. in the *King v. Parker* case
142. 1/14/2022 Condensed Deposition Transcript of Craig W. Stevens, Ph. D. in the *King v. Parker* case
143. 11/17/2021 Expert Opinion: Inappropriate Use of Midazolam in Tennessee's Triple-Drug Lethal Injection Protocol to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
144. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
145. Exhibit 2 – 11/17/2021 Expert Opinion: Inappropriate Use of Midazolam in Tennessee's Triple-Drug Lethal Injection Protocol to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
146. Exhibit 3 – 6/11/2018 deposition transcript of Craig W. Stevens, Ph.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
147. Exhibit 4 - Transcript of 7/9/2018 proceedings (pages 1 - 150 only) to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
148. Exhibit 5 - Lethal Injection Execution Manual, rev 7/5/2018 to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case

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149. Exhibit 6 - July 2021 Curriculum Vitae of Craig W. Stevens, Ph.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
150. Exhibit 7 - American Society of Anesthesiologists Continuum of Depth of Sedation: Definition of General Anesthesia and Levels of Sedation/Analgesia to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
151. Exhibit 8 – 11/1/2019 Expert Declaration of Craig W. Stevens, PH.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
152. Exhibit 9 - Death Be Not Proud: The pharmacology of lethal drug executions to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
153. 1/11/2022 Full deposition transcript of Dr. Gail Van Norman in the *King v. Parker* case
154. 11/17/2021 Expert Opinion of Gail A. Van Norman, MD to transcript of Dr. Gail Van Norman in the *King v. Parker* case
155. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to transcript of Dr. Gail Van Norman in the *King v. Parker* case
156. Exhibit 2 – 11/17/2021 Expert Opinion of Gail A. Van Norman, MD to transcript of Dr. Gail Van Norman in the *King v. Parker* case
157. 11/10/2021 Report of Dr. James S. Williams: Efficacy and Feasibility of Firing Squad as a Means of Execution for Dr. Williams Transcript in the *King v. Parker* case
158. 1/4/2022 Full deposition transcript of Dr. James Williams in the *King v. Parker* case
159. 1/4/2022 Condensed deposition transcript for Dr. James Williams Transcript in the *King v. Parker* case
160. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Williams Transcript in the *King v. Parker* case
161. Exhibit 2 – 11/10/2021 Report of Dr. James S. Williams: Efficacy and Feasibility of Firing Squad as a Means of Execution to Dr. Williams Transcript in the *King v. Parker* case

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162. Exhibit 3 - Gunshot Wound Review by Martin L. Fackler, MD to Dr. Williams Transcript in the *King v. Parker* case
163. Exhibit 4 - Utah Technical Manual for execution by firing squad, rev 6/10/2010 to Dr. Williams Transcript in the *King v. Parker* case
164. Exhibit 5 - U.S. Army's Procedure for Military Executions to Dr. Williams Transcript in the *King v. Parker* case
165. Exhibit 6 - Diagnosis of brain death by G Bryan Young, MD to Dr. Williams Transcript in the *King v. Parker* case
166. Exhibit 7 - Advanced Trauma Life Support Student Course Manual to Dr. Williams Transcript in the *King v. Parker* case
167. Exhibit 8 - Military Police - U.S. Army Corrections System: Procedures for Military Executions to Dr. Williams Transcript in the *King v. Parker* case
168. Exhibit 9 - Thread of 7/22/2015 comments on forum to Dr. Williams Transcript in the *King v. Parker* case
169. 3/10/2022 Sworn Statement of Jim Biddle for Plaintiff's fact witnesses in the *King v. Parker* case
170. Exhibit 1 - TDOC Lethal Injection Execution Manual, rev 7/5/2018 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
171. Exhibit 2 - Midazolam storage and preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
172. Exhibit 3 - October 2017 email thread re request for a drug storage protocol and info for a DEA # for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
173. Exhibit 4 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
174. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
175. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

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176. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
177. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
178. Exhibit 9 – 9/21/2017 email thread re request to order lethal drugs used in 3 drug protocol for 20 inmates for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
179. Exhibit 10 – 4/6/2017 email inquiring about current inventory of Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
180. Exhibit 11 – 4/6/2017 email inquiry regarding Pentobarbital bulk order for compounding for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
181. Exhibit 12- 4/6/2017 email request to purchase Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
182. Exhibit 13 – 7/20/2017 email thread re Pentobarbital update and DEA involvement for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
183. Exhibit 14 - Handwritten notes re importation of drugs from oversea sources for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
184. Exhibit 15 – 4/4/2017 email thread re inquiry to buy bulk order of Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
185. Exhibit 16 - TDOC PowerPoint slides re efforts to procure chemicals to compound lethal injections, death row inmates and current execution law for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
186. Exhibit 17 – 10/30/2019 email thread discussing importing drugs and DEA for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

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187. Exhibit 18 – 6/20/2018 email thread inquiring about purchasing Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
188. Exhibit 19 – 5/3/2019 Memorandum Opinion for the Attorney General: Whether the FDA has Jurisdiction over Articles Intended for Use in Lawful Executions for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
189. Exhibit 20 – 12/4/2017 email thread re Vecuronium requiring reconstitution for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
190. Exhibit 21 – 11/26/2019 email with subject Lab Results for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
191. Exhibit 22 – 8/9/2019 email indicating house sterility report is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
192. Exhibit 23 – 8/8/2019 email indicating suitability/methodology test for KCI that was falling out of solution is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
193. Exhibit 24 – 8/8/2019 email thread re kcl protocol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
194. Exhibit 25 – 7/31/2019 email re Midazolam complete report for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
195. Exhibit 26 – 7/24/2019 email indicating potency reports for the Midazolam and KCI are attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
196. Exhibit 27 – 06/2019 – 07/2019 email thread re KCI protocol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
197. Exhibit 28 – 5/9/2019 email indicating lab report for Midazolam is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
198. Exhibit 29 – 4/29/2019 email indicating potency report for Midazolam batch is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

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199. Exhibit 30 – 8/6/2018 email indicating the lab results for sterility testing are attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
200. Exhibit 31 – 7/12/2018 email indicating a testing report is attached re compounds for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
201. Exhibit 32 – 11/14/2017 email requesting info on an exam, manufacturer and to discuss contract for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
202. Exhibit 33 – 7/17/2018 email attaching a sample prescription for ordering a compounded preparation for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
203. Exhibit 34 – 12/15/2017 email providing TCA 10-7-504(h) and a case for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
204. Exhibit 35 – 6/26/2019 email providing proposed alternatives Midazolam, Digoxin, Morphine Sulfate and Propranolol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
205. Exhibit 36 – 12/20/2019 Invoice for bulk shipment of Midazolam and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
206. Exhibit 37 – 10/26/2017 Invoice for bulk shipment of Midazolam, Vecuronium and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
207. Exhibit 38 – 8/16/2018 Invoice for bulk shipment of Midazolam and Vecuronium for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
208. Exhibit 39 – 12/28/2017 Invoice for Midazolam, Vecuronium, Sterile water for injection and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
209. Exhibit 40 – 10/31/2018 Invoice for Midazolam for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
210. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

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211. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
212. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
213. Exhibit 44 – 4/14/2021 Chemical Preparation Time Sheet for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
214. Exhibit 45 – 8/13/2020 email re training requirements for compounding and status of KCI and Midazolam remaining for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
215. Exhibit 46 – 11/21/2017 Pharmacy Services Agreement for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
216. Exhibit 47 – 10/18/2017 email re lethal drugs received from suppliers for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
217. Exhibit 48 - Picture of area where lethal drugs are stored for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
218. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
219. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
220. Exhibit 51 – 3/30/2021 In-Service Training Course Roster for Lethal Injection and sample documents used on day of executions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
221. Exhibit 52 – 4/13/2021 dated Day of Execution checklist sample for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
222. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
223. Exhibit 54 -4/13/2021 dated Lethal Injection Chemical Administration Record sample for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
224. Exhibit 55 - IV Team Inventory Checklist for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

- 225. Exhibit 56 - Physician's Inventory Checklist for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 226. Exhibit 57 – 8/9/2018 Day of Execution - Lethal Injection Execution Recorder Checklist for Billy Ray Irick for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 227. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 228. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 229. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 230. Exhibit 61 – 5/16/2019 Lethal Injection Chemical Administration Record for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 231. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 232. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 233. Exhibit 64 - TDOC Administrative Policies and Procedures for Standard Firearms Qualification Training for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 234. Exhibit 65 – 4/14/2021 Chemical Prep Sheets for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 235. Exhibit 66 – 5/16/2018 Sample Day of Execution check list for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 236. Exhibit 67 – 7/17/2018 Chemical Prep sheets for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 237. Exhibit 68 – 2/22/2017 Sample Day of Execution check list for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

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238. Exhibit 69 - Subpoena to Testify at a Deposition to TDOC Designees signed on 9/10/2021 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
239. Exhibit 70 - Lethal Drug Prescription Orders for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
240. Exhibit 71 - USP Pharmaceutical Compounding - Nonsterile Preparations chapter 795 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
241. Exhibit 72 - USP Pharmaceutical Compounding - Sterile Preparations chapter 797 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
242. Exhibit 73 – 11/28/2017 email attaching an executed agreement and revisions to the protocols for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
243. Exhibit 74 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
244. Exhibit 75 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
245. Exhibit 76 - Sample Prescription for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
246. Exhibit 77 - Midazolam lab report for sterility for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
247. Exhibit 78 - Midazolam lab report for potency for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
248. Exhibit 79 - Pharmacy Board Order for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
249. Exhibit 81 – 5/9/2019 In-Service Training Course Roster for Spike IV Bag and Establish IV and training material for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
250. Exhibit 82 - Tennessee Emergency Medical Services Protocol Guidelines for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

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251. Exhibit 83 - Declaration of Tony C. Parker dated 10/5/2021 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
252. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
253. Exhibit 2 - Midazolam storage and preparation instructions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
254. Exhibit 3 - October 2017 email thread re request for a drug storage protocol and info for a DEA # for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
255. Exhibit 4 - Potassium Chloride preparation instructions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
256. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
257. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
258. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
259. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
260. Exhibit 9 – 9/21/2017 email thread re request to order lethal drugs used in 3 drug protocol for 20 inmates for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
261. Exhibit 10 – 4/6/2017 email inquiring about current inventory of Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
262. Exhibit 11 – 4/6/2017 email inquiry regarding Pentobarbital bulk order for compounding for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
263. Exhibit 12 – 4/6/2017 email request to purchase Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

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264. Exhibit 13 – 7/20/2017 email thread re Pentobarbital update and DEA involvement for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
265. Exhibit 14 - Handwritten notes re importation of drugs from oversea sources for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
266. Exhibit 15 – 4/4/2017 email thread re inquiry to buy bulk order of Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
267. Exhibit 16 - TDOC PowerPoint slides re efforts to procure chemicals to compound lethal injections, death row inmates and current execution law for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
268. Exhibit 17 – 10/30/2019 email thread discussing importing drugs and DEA for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
269. Exhibit 18 – 6/20/2018 email thread inquiring about purchasing Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
270. Exhibit 19 – 5/3/2019 Memorandum Opinion for the Attorney General: Whether the FDA for [Drug Procurer] Deposition Transcript has Jurisdiction over Articles Intended for Use in Lawful Executions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
271. Exhibit 20 – 12/4/2017 email thread re Vecuronium requiring reconstitution for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
272. Exhibit 21 – 11/26/2019 email with subject Lab Results for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
273. Exhibit 22 – 8/9/2019 email indicating house sterility report is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
274. Exhibit 23 – 8/8/2019 email indicating suitability/methodology test for KCI that was falling out of solution is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
275. Exhibit 24 – 8/8/2019 email thread re kcl protocol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

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276. Exhibit 25 – 7/31/2019 email re Midazolam complete report for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
277. Exhibit 26 – 7/24/2019 email indicating potency reports for the Midazolam and KCI are attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
278. Exhibit 27 – 06/2019 – 07/2019 email thread re KCI protocol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
279. Exhibit 28 – 5/9/2019 email indicating lab report for Midazolam is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
280. Exhibit 29 – 4/29/2019 email indicating potency report for Midazolam batch is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
281. Exhibit 30 – 8/6/2018 email indicating the lab results for sterility testing are attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
282. Exhibit 31 – 7/12/2018 email indicating a testing report is attached re compounds for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
283. Exhibit 32 – 11/14/2017 email requesting info on an exam, manufacturer and to discuss contract for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
284. Exhibit 33 – 7/17/2018 email attaching a sample prescription for ordering a compounded preparation for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
285. Exhibit 34 – 12/15/2017 email providing TCA 10-7-504(h) and a case for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
286. Exhibit 35 – 6/26/2019 email providing proposed alternatives Midazolam, Digoxin, Morphine Sulfate and Propranolol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
287. Exhibit 36 – 12/20/2019 Invoice for bulk shipment of Midazolam and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

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288. Exhibit 37 – 10/26/2017 Invoice for bulk shipment of Midazolam, Vecuronium and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
289. Exhibit 38 – 8/16/2018 Invoice for bulk shipment of Midazolam and Vecuronium for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
290. Exhibit 39 – 12/28/2017 Invoice for Midazolam, Vecuronium, Sterile water for injection and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
291. Exhibit 40 – 10/31/2018 Invoice for Midazolam for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
292. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
293. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
294. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
295. Exhibit 44 – 5/16/2019 Chemical Preparation Time Sheet for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
296. Exhibit 45 – 8/13/2020 email re training requirements for compounding and status of KCI and Midazolam remaining for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
297. Exhibit 46 – 11/21/2017 Pharmacy Services Agreement for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
298. Exhibit 47 – 10/18/2017 email re lethal drugs received from suppliers for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
299. Exhibit 48 - Picture of area where lethal drugs are stored for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
300. 10/20/2021 Deposition transcript of EMT 1 in the *King v. Parker* case
301. Exhibit 81 – 5/9/2019 In-Service Training Course Roster for Spike IV Bag and Establish IV and training material for EMT 1 Deposition Transcript in the *King v. Parker* case

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302. Exhibit 82 - Tennessee Emergency Medical Services Protocol Guidelines for EMT 1 Deposition Transcript in the *King v. Parker* case
303. 10/22/2021 Deposition transcript of EMT 2 in the *King v. Parker* case
304. 10/21/2021 Deposition transcript of EMT 3 in the *King v. Parker* case
305. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for Executioner Deposition in the *King v. Parker* case
306. Exhibit 2 - Midazolam storage and preparation instructions for Executioner Deposition in the *King v. Parker* case
307. Exhibit 4 - Potassium Chloride preparation instructions for Executioner Deposition in the *King v. Parker* case
308. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Executioner Deposition in the *King v. Parker* case
309. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Executioner Deposition in the *King v. Parker* case
310. Exhibit 44 – 4/4/2021 Chemical Preparation Time Sheet for Executioner Deposition in the *King v. Parker* case
311. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Executioner Deposition in the *King v. Parker* case
312. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Executioner Deposition in the *King v. Parker* case
313. Exhibit 51 – 3/30/2021 In-Service Training Course Roster for Lethal Injection and sample documents used on day of executions for Executioner Deposition in the *King v. Parker* case
314. Exhibit 52 – 4/13/2021 dated Day of Execution checklist sample for Execution Deposition in the *King v. Parker* case
315. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Executioner Deposition in the *King v. Parker* case
316. Exhibit 54 – 4/13/2021 dated Lethal Injection Chemical Administration Record sample for Executioner Deposition in the *King v. Parker* case

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317. Exhibit 55 - IV Team Inventory Checklist for Executioner Deposition in the *King v. Parker* case
318. Exhibit 56 - Physician's Inventory Checklist for Executioner Deposition in the *King v. Parker* case
319. Exhibit 57 – 8/9/2018 Day of Execution - Lethal Injection Execution Recorder Checklist for Billy Ray Irick for Executioner Deposition in the *King v. Parker* case
320. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Executioner Deposition in the *King v. Parker* case
321. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Executioner Deposition in the *King v. Parker* case
322. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Executioner Deposition in the *King v. Parker* case
323. Exhibit 61 – 5/16/2019 Lethal Injection Chemical Administration Record for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
324. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
325. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
326. Exhibit 64 - TDOC Administrative Policies and Procedures for Standard Firearms Qualification Training for Executioner Deposition in the *King v. Parker* case
327. 10/13/2021 Deposition transcript of Debra K. Inglis in the *King v. Parker* case
328. 9/24/2021 Deposition transcript of IV Team Member 1 in the *King v. Parker* case
329. 9/16/2021 Deposition transcript of IV Team Member 2 in the *King v. Parker* case
330. 9/22/2021 Deposition transcript of IV Team Member 3 in the *King v. Parker* case

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331. 7/29/2021 Deposition transcript of Associate Warden Ernest Lewis in the *King v. Parker* case
332. Exhibit 1- Lethal Injection Execution Manual rev 7/5/2018 for Associate Warden Lewis Deposition in the *King v. Parker* case
333. Exhibit 2 - Midazolam storage and preparation instructions for Associate Warden Lewis Deposition in the *King v. Parker* case
334. Exhibit 4 - Potassium Chloride preparation instructions for Associate Warden Lewis Deposition in the *King v. Parker* case
335. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Associate Warden Lewis Deposition in the *King v. Parker* case
336. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Associate Warden Lewis Deposition in the *King v. Parker* case
337. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Associate Warden Lewis Deposition in the *King v. Parker* case
338. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Associate Warden Lewis Deposition in the *King v. Parker* case
339. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Associate Warden Lewis Deposition in the *King v. Parker* case
340. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Associate Warden Lewis Deposition in the *King v. Parker* case
341. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnic Johnson for Associate Warden Lewis Deposition in the *King v. Parker* case
342. 7/27/2021 Deposition transcript of Warden Tony Mays in the *King v. Parker* case
343. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for Warden Mays Deposition in the *King v. Parker* case
344. Exhibit 2 - Midazolam storage and preparation instructions for Warden Mays Deposition in the *King v. Parker* case

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345. Exhibit 4 - Potassium Chloride preparation instructions for Warden Mays Deposition in the *King v. Parker* case
346. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for Warden Mays Deposition in the *King v. Parker* case
347. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for Warden Mays Deposition in the *King v. Parker* case
348. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Warden Mays Deposition in the *King v. Parker* case
349. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
350. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
351. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
352. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Warden Mays Deposition in the *King v. Parker* case
353. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Warden Mays Deposition in the *King v. Parker* case
354. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Warden Mays Deposition in the *King v. Parker* case
355. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Warden Mays Deposition in the *King v. Parker* case
356. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Warden Mays Deposition in the *King v. Parker* case
357. Exhibit 60 - 9/2/2018 Declaration of David A. Lubarsky, MD for Warden Mays Deposition in the *King v. Parker* case
358. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Warden Mays Deposition in the *King v. Parker* case

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359. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Warden Mays Deposition in the *King v. Parker* case
360. Exhibit 65 – 4/14/2021 Chemical Prep Sheets for Warden Mays Deposition in the *King v. Parker* case
361. Exhibit 66 – 5/16/2018 Sample Day of Execution check list for Warden Mays Deposition in the *King v. Parker* case
362. Exhibit 68 – 2/22/2017 Sample Day of Execution check list for Warden Mays Deposition in the *King v. Parker* case
363. 9/30/201 Deposition transcript of Tony Parker in the *King v. Parker* case
364. 11/22/2021 Deposition transcript of Tony Parker in the *King v. Parker* case
365. Exhibit 83 Declaration of Tony C. Parker dated 10/5/2021 for Tony Parker Deposition in the *King v. Parker* case
366. 9/29/2021 Deposition Transcript of Tony Parker as Corporate Representative for IDOC in the *King v. Parker* case
367. 7/30/2021 Deposition Transcript of [Pharmacist] in the *King v. Parker* case
368. Exhibit 70 - Lethal Drug Prescription Orders for [Pharmacist] Deposition in the *King v. Parker* case
369. Exhibit 71 - USP Pharmaceutical Compounding - Nonsterile Preparations chapter 795 for [Pharmacist] Deposition in the *King v. Parker* case
370. Exhibit 72 - USP Pharmaceutical Compounding - Sterile Preparations chapter 797 for [Pharmacist] Deposition in the *King v. Parker* case
371. 10/1/2021 Deposition Transcript of Pharmacy Owner in the *King v. Parker* case
372. 9/17/2021 Deposition Transcript of Steven Turley as Corporate Representative for Utah Department of Corrections in the *King v. Parker* case
373. Exhibit 1 - Amended Notice of Deposition to the Utah Department of Corrections dated 9/10/2021 in the *King v. Parker* case
374. Exhibit 2 - Picture of firing squad chair and backing in the *King v. Parker* case

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375. Exhibit 3 - Description of the firing squad chair and backing in the *King v. Parker* case
376. Exhibit 4 – 9/30/2003 Inter-Office memorandum re estimated cost for upcoming execution by firing-squad in the *King v. Parker* case
377. Exhibit 5 - Utah Technical Manual for execution by firing squad, rev 6/10/2010 in the *King v. Parker* case
378. Exhibit 6 - Picture of execution chamber in the *King v. Parker* case
379. Exhibit 7 – 1/29/2014 email thread re costs of execution methods in the *King v. Parker* case

## Documents from Kelley Henry

1. Plaintiff prisoners PowerPoint in the *Abu Ali Abdur'Rahman* matter.
2. 05/20/2019 Request from Kelley Henry for records re the execution of Johnson, response to request and information advising Johnson's Midazolam was tested for potency and sterility. The sterility passed on 5/9/19 and the potency results were 104%.
3. 04/21/2022 Email from Kelley Henry to Debbie Inglis, et al requesting that Inglis preserve all evidence re Oscar Smith's execution that did not go forward.
4. 04/21/2022 Email from Kelley Henry to Debbie Inglis, et al requesting a response re 4.20.22 email requesting proof of testing for the lethal injection chemicals intended to be used for Oscar Smith's 04/21/2022 execution.
5. 04/20/2022 Email from Kelley Henry to Debbie Inglis, et al requesting proof re testing of the lethal injection chemicals intended to be used for Oscar Smith's 04/21/2022 execution.

## Documents from David Esquivel

1. 10/3/2022 Letter to Ed Stanton, et al from David Esquivel re suggested Lethal Injection protocol recommendations

## Documents from [Former Pharmacy Owner]

1. Directions for unpacking and storage
2. Revised IV protocol for Midazolam

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## 3. Chemicals Used in Lethal Injection Edited protocol

### **Documents from Pharmacy**

1. [Pharmacy] Pharmacy license expiring 4/30/2022
2. [Pharmacy] Texas Pharmacy License expiring 4/30/2024
3. Sterile Compounding training document
4. Sterile Compounding training document
5. Sterile Compounding training document
6. Sterile Compounding training document
7. Sterile Compounding Aseptic Technique document
8. [Pharmacy] Pharmacy Tennessee license expiring 7/31/2022
9. Formula Worksheet for Sodium Hydroxide 1% Water for injection
10. Midazolam preparation instructions
11. 3/16/2022 Oscar Franklin Smith Prescription Order for Potassium Chloride and Midazolam
12. Formula Worksheet for Midazolam 50 MG/ML Injection Solution
13. Unredacted Midazolam log of prescriptions filled between 1/1/2017 - 8/9/2022
14. Redacted Midazolam log of prescriptions filled between 1/1/2017 - 8/9/2022
15. 5/22/2018 Midazolam suitability test
16. Logged Formula Worksheet for Potassium Chloride 15% injection solution concentrate injectable
17. Potassium Chloride preparation instructions
18. Potassium Chloride log of prescriptions filled between 1/1/2017 - 8/9/2022
19. Potassium Chloride Inventory log between 1/1/2000 - 5/11/2022

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20. IV Protocol
21. 7/26/2021 Hotel Booking Invoice for [Pharmacist]
22. 9/1/2021 [Pharmacy] Invoice to TDOC
23. Formula Worksheet for Hydrochloric Acid 1% water for injection 1%
24. Lab Report for 5/11/2018 Midazolam Potency and Endotoxins and 5/25/2018 Sterility
25. protocols for chemicals used in lethal injection, rev. 7/11/2016
26. Formula Worksheet for Edctate Disodium 1% water for injection
27. [Pharmacy] DEA License expiring 2/28/2023
28. 2/11/2020 [Pharmacy] Invoice to TDOC
29. Midazolam inventory log between 1/1/2000 - 9/17/2021
30. Log of Midazolam made for TDOC between 1/1/2018 - 8/13/2020
31. Log of Potassium Chloride made for TDOC between 1/1/2018 - 8/13/2020
32. Potassium Chloride inventory log between 1/1/2000 - 9/17/2021
33. Potassium Chloride inventory log between 1/1/2000 - 9/17/2021
34. 5/14/2018 Lab report for container closure integrity
35. 9/17/2020 Letter from B. Braun Medical Inc. to [Pharmacy] re potential misuse of its Potassium Chloride drug product
36. Emails from pharmacy from 2020 - 2019 (8 pages)
37. Emails from pharmacy from 2019 (10 pages)
38. Emails from pharmacy from 2021 (14 pages)
39. Emails from pharmacy from 2021 (14 pages)
40. Emails from pharmacy from 2022 - 2021 (16 pages)
41. Emails from pharmacy from 2019 - 2018 (22 pages)

# **Exhibit 4**



U.S. Department of  
**JUSTICE**

# Review of the Federal Execution Protocol Addendum and Manner of Execution Regulations



January 2025

Office of Legal Policy

## Introduction

On July 1, 2021, the Attorney General issued a memorandum instituting a moratorium on federal executions pending the Department of Justice's (Department) review of certain policies and procedures.<sup>1</sup> This review consists of three prongs: first, a review of the federal execution protocol addendum; second, a review of the manner of execution regulations;<sup>2</sup> and third, a review of the relevant Justice Manual provisions. In the memorandum, the Attorney General noted that "the Department of Justice must ensure that everyone in the federal criminal justice system is not only afforded the rights guaranteed by the Constitution and laws of the United States, but is also treated fairly and humanely." The memorandum directed the Office of Legal Policy (OLP), under the supervision of the Deputy Attorney General, to coordinate the first two prongs of the review.<sup>3</sup>

Regarding the review of the federal execution protocol addendum, which provides that an injection of a single drug – pentobarbital – is the sole manner of federal execution, the memorandum stated in part:

Although some medical experts have concluded that the use of pentobarbital may risk inflicting painful pulmonary edema, the Supreme Court found that this risk was insufficient "to justify last-minute intervention by a Federal Court" shortly before an execution was scheduled to occur. *Barr v. Lee*, 140 S. Ct. 2590, 2591 (2020) (per curiam). A risk need not meet the Court's high threshold for such relief, or violate the Eighth Amendment, to raise important questions about our responsibility to treat individuals humanely and avoid unnecessary pain and suffering.

Regarding the review of the manner of execution regulations, the memorandum noted that they had last been amended on November 27, 2020, to reflect the provisions of the Federal Death Penalty Act, 18 U.S.C. § 3596. This statute expanded the permissible methods of execution to include any manner prescribed by the "law of the State in which the sentence was imposed," and also permitted the federal government to use state facilities and personnel in federal executions. Additionally, the amendments to the manner of execution regulations added procedural provisions regarding the Attorney General's capacity to make exceptions to the regulations, as well as to delegate relevant duties within the Department. The memorandum directed a review to consider modification, rescission, or any other changes to the regulations.

This document summarizes the reviews of the federal execution protocol addendum and the manner of execution regulations in two parts. Part I addresses the review of the federal execution protocol: After an extensive review of available

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<sup>1</sup> Memorandum from the Attorney General, *Moratorium on Federal Executions Pending Review of Policies and Procedures* (July 1, 2021), <https://www.justice.gov/opa/file/1557511/dl?inline>.

<sup>2</sup> See 28 C.F.R. § 26 (2020).

<sup>3</sup> On January 30, 2023, the Deputy Attorney General issued a memorandum adopting changes to Title 9, Chapter 10 of the Justice Manual, which addresses capital crimes. See Memorandum from the Deputy Attorney General, *Changes to the Justice Manual's Provisions Regarding Capital Crimes* (January 30, 2023) <https://www.justice.gov/d9/2023-01/2023.01.30%20DAG%20Memo%20re%20JM%20Edits.pdf>.

scientific, medical, and legal research; recent autopsies of individuals who have received lethal injections of pentobarbital; consultation with experts within and outside the Department; and solicitation and consideration of public comments, OLP concludes that there remains significant uncertainty about whether the use of pentobarbital as a single-drug lethal injection causes unnecessary pain and suffering. In the face of such uncertainty, the Department should err on the side of humane treatment and avoidance of unnecessary pain and suffering, and therefore halt the use of pentobarbital unless and until that uncertainty is resolved. Part 2 addresses the review of the manner of execution regulations: Because the amendments made in 2020 largely reflect statutory law, there is no present reason to modify or rescind them. However, if the federal government were required to conduct an execution in a manner other than lethal injection of pentobarbital, the Department should undertake an analysis of that manner like the one engaged in here with regard to pentobarbital before it may be used.

## **Part 1 – The Federal Execution Protocol**

### **I. Background**

#### **a. Capital Punishment and the Eighth Amendment of the Constitution**

While the Supreme Court has a robust jurisprudence addressing the “cruel and unusual punishment” clause of the Eighth Amendment,<sup>4</sup> it has never held that a method of execution adopted by a state or the federal government, and challenged in litigation, violates the Eighth Amendment.<sup>5</sup> The Court’s caselaw thus does not provide definitive guidance on what is unconstitutionally cruel and unusual in the capital punishment context, although the Court has

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<sup>4</sup> See, e.g., *Wilkerson v. Utah*, 99 U.S. 130, 136 (1878) (finding it “safe to affirm that punishments of torture...and all others in the same line of unnecessary cruelty, are forbidden.”); *In re Kemmler*, 136 U.S. 436, 446 (1890) (stating that “if the punishment prescribed for an offense against the laws of the state were manifestly cruel and unusual, as burning at the stake, crucifixion, breaking on the wheel, or the like, it would be the duty of the courts to adjudge such penalties to be within the constitutional prohibition”); *Weems v. United States*, 217 U.S. 349 (1910) (prohibiting a sentence of 12 years in chains and hard labor); *Trop v. Dulles*, 356 U.S. 86 (1958) (prohibiting expatriation); *Robinson v. California*, 370 U.S. 660 (1962) (prohibiting the imprisonment for narcotics addition); *Estelle v. Gamble*, 429 U.S. 97 (1976) (prohibiting incarceration without medical care); *Atkins v. Virginia*, 536 U.S. 304 (2002) (finding the death penalty is unconstitutional for people with intellectual disabilities); *Roper v. Simmons*, 543 U.S. 551 (2005) (finding the death penalty is unconstitutional for people who were under 18 when they committed a crime); *Kennedy v. Louisiana*, 554 U.S. 407, 447 (2008) (reserving the imposition of the death penalty to “crimes that take the life of the victim”).

<sup>5</sup> See, e.g., *Wilkerson*, 99 U.S. 130 (regarding the use of a firing squad); *In re Kemmler*, 136 U.S. 436 (regarding the use of the electric chair); *Gary v. Lucas*, 463 U.S. 1237 (1983) (denying certiorari to a challenge to a state’s use of a gas chamber); *Baze v. Rees*, 553 U.S. 35, 48 (2008) (upholding Kentucky’s lethal injection procedure, finding that the plaintiff did not demonstrate that the execution procedure imposed a substantial risk of serious harm or a feasible alternative that reduces the a substantial risk of severe pain); *Barr v. Lee*, 591 U.S. 979 at 981 (2020) (vacating a district court’s preliminary injunction against the federal government and permitting the federal execution to proceed using pentobarbital, finding that plaintiffs “have not made the showing required to justify last-minute intervention by a Federal Court”); see also *United States v. Aquart*, 912 F.3d 1, 62 (2d Cir. 2018) (finding that “the Court has not drawn ‘precise distinctions between cruelty and unusualness’ or clearly indicated that the two words bear qualitatively different meanings” (citing *Trop*, 356 U.S. at 100 n.32)).

said more generally that “wanton and unnecessary infliction of pain” offends the Eighth Amendment.<sup>6</sup>

In 1972, in the landmark case of *Furman v. Georgia*, the Supreme Court held in a one-paragraph per curiam decision that “the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.”<sup>7</sup> The petitioners before the Court had been convicted and sentenced to death by juries in state courts, but the manner of execution was not at issue: the concerns in the case centered on the arbitrary and discriminatory application of the death penalty. The five justices in the majority each filed separate opinions in support of the judgment, providing independent justifications for the decision. Three of those five justices noted their view that the death penalty could be constitutional if greater procedural safeguards were in place, such that the jury would be required to adhere to standards for determining that the death penalty was appropriate. While the case effectively invalidated the prevailing state death penalty statutes at the time, the decision left room for state and federal legislators to rewrite statutes to address the concerns about the arbitrary imposition of the death penalty.<sup>8</sup>

Four years later, after thirty-five states enacted revised death penalty laws, the Court upheld the constitutionality of the death penalty statutes considered in *Gregg v. Georgia* and several companion cases.<sup>9</sup> The Court ruled that death penalty statutes that included safeguards to guide juror discretion and to require jurors to make special findings or to weigh “aggravating” versus “mitigating” circumstances withstood constitutional scrutiny.<sup>10</sup>

Since the 1970s, the Court has largely left questions about the method and implementation of capital punishment to legislative bodies, juries, and executive branch officials, but has placed limits on the instances in which the death penalty may be appropriate.<sup>11</sup> In *Kennedy v. Louisiana*, the Court stated that the “evolving standards of decency” principle “requires that use of the death penalty be restrained.”<sup>12</sup> The Court said that “[i]n most cases justice is not better served by terminating the life of the perpetrator,” and it held that use of the death penalty “must be reserved for the worst of crimes and limited in its instances of application.”<sup>13</sup> Using the “evolving standards of decency” test, the Court has found unconstitutional the execution of certain categories of offenders, including juveniles, individuals

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<sup>6</sup> See *Ingraham v. Wright*, 430 U.S. 651, 670 (1977) (quoting *Estelle*, 429 U.S. at 103).

<sup>7</sup> *Furman v. Georgia*, 408 U.S. 238, 239-40 (1972).

<sup>8</sup> Carol S. Steiker & Jordan M. Steiker, *Little Furmans Everywhere: State Court Intervention and the Decline of the American Death Penalty*, 107 *Cornell L. Rev.* 1621, 1626 (2022).

<sup>9</sup> *Gregg v. Georgia*, 428 U.S. 153, 875 (1976) (plurality opinion); *Proffitt v. Florida*, 428 U.S. 242 (1976); *Jurek v. Texas*, 428 U.S. 262 (1976); *Woodson v. North Carolina* 428 U.S. 280 (1976); *Roberts v. Louisiana*, 428 U.S. 325 (1976).

<sup>10</sup> *Id.* at 153. On the same day *Gregg* was decided, the Court decided *Woodson v. North Carolina*, 428 U.S. 280, 303 (1976), in which the Court held that the mandatory imposition of the death penalty is unconstitutional and that a “particularized consideration of relevant aspects of the character and record of each convicted defendant” is necessary “before the imposition upon him of a sentence of death.”

<sup>11</sup> See James C. Feldman, *Nothing Less than the Dignity of Man: The Eighth Amendment and State Efforts to Reinstitute Traditional Methods of Execution*, 90 *Wash. U.L. Rev.* 1313 (2015).

<sup>12</sup> *Kennedy*, 554 U.S. at 446.

<sup>13</sup> *Id.* at 447.

with an intellectual disability, and individuals convicted of offenses other than homicide.<sup>14</sup> While the Court has held that certain forms of corporal punishment violate the Eighth Amendment, such as the use of excessive force in physical restraints,<sup>15</sup> it has never found specific methods of execution to violate the Constitution.<sup>16</sup>

In *Baze v. Rees*, the Court considered the constitutionality of Kentucky's lethal injection procedure and held that it did not violate the Eighth Amendment. The plurality opinion begins with the assertion that if capital punishment is constitutional, then it "necessarily follows that there must be a means of carrying it out."<sup>17</sup> Under *Baze*, for a petitioner to succeed on an Eighth Amendment challenge, he or she must demonstrate, first, that an execution procedure imposes a "substantial" or "objectively intolerable" risk of serious harm; and second, that there is a "feasible, readily implemented" alternative that "in fact significantly reduce[s] a substantial risk of severe pain."<sup>18</sup> Later, in *Bucklew v. Precythe*, the Court further articulated that the Eighth Amendment "does not guarantee a prisoner a painless death."<sup>19</sup> The Court held that the Eighth Amendment permits methods of execution, like hanging, that involved a significant risk of pain, while forbidding as cruel only those methods that intensified the death sentence by "'superadding' terror, pain, or disgrace" as compared to a viable alternative method.<sup>20</sup>

Taken together, the Court's recent decisions require petitioners who are challenging the method of execution to establish that a State's chosen method cruelly "superadds" pain to the death sentence, that there is a feasible and readily implemented alternative method that would significantly reduce a substantial risk of severe pain, and that the State has refused to adopt that method without a legitimate penological reason.<sup>21</sup> The Court has stated that the Constitution affords a "measure of deference to a State's choice of execution procedures," and does not authorize courts to serve as "boards of inquiry charged with determining 'best practices' for executions."<sup>22</sup>

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<sup>14</sup> See *Atkins*, 536 U.S. 304; *Roper*, 543 U.S. 551; *Kennedy*, 554 U.S. 407.

<sup>15</sup> In *Hope v. Pelzer*, 536 U.S. 730 (2002), the Supreme Court characterized the gratuitous handcuffing of a shirtless inmate to a hitching post for hours at a time as an "obvious" Eighth Amendment violation.

<sup>16</sup> See *Glossip v. Gross*, 576 U.S. 863 (2015) ("While methods of execution have changed over the years, '[t]his Court has never invalidated a State's chosen procedure for carrying out a sentence of death as the infliction of cruel and unusual punishment.'" (quoting *Baze*, 553 U.S. at 48 (2008))).

<sup>17</sup> *Baze*, 553 U.S. at 47.

<sup>18</sup> *Id.* at 47-52 (noting that the Court's "broad framework of the Eighth Amendment" and its "approval of a particular method in the past has not precluded legislatures from taking the steps they deem appropriate, in light of new developments, to ensure humane capital punishment").

<sup>19</sup> *Bucklew v. Precythe*, 587 U.S. 119, 132 (2019).

<sup>20</sup> *Id.* at 138 (citing *Baze*, 553 U.S. at 48; *Glossip*, 576 U.S. 863); see also *Wilkerson*, 99 U.S. at 135 (in which the Court noted cases in England in which "terror, pain, or disgrace were sometimes superadded" to the sentence").

<sup>21</sup> *Bucklew*, 587 U.S. at 134.

<sup>22</sup> *Baze*, 553 U.S. at 51-52.

## b. History of Federal Executions

In the last 100 years, the federal government's implementation of capital punishment has been limited: 34 people were executed between 1927 and 1963; 3 were executed between 2001 and 2003, and 13 were executed in 2020 and 2021.<sup>23</sup>

Until 1937, federal law prescribed hanging as the method of execution.<sup>24</sup> In 1937, Congress mandated that each federal execution be carried out in the manner prescribed by the laws of the State within which the sentence was imposed,<sup>25</sup> which at time also included the use of the electric chair and gas chamber. In 1988, Congress passed the Anti-Drug Abuse Act of 1988, which made the death penalty available for certain drug-related offenses but did not specify a method of execution.<sup>26</sup> The Justice Department issued regulations providing for lethal injection to be the federal method of execution in 1993.<sup>27</sup>

Subsequently, through the Violent Crime Control and Law Enforcement Act of 1994, Congress expanded the number of offenses for which the death penalty could be imposed and established general statutory procedures for seeking and imposing capital sentences.<sup>28</sup> The statute also included the Federal Death Penalty Act, which requires that federal executions be implemented "in the manner prescribed by the law of the State in which the sentence is imposed" and gives the Attorney General discretion to use "appropriate State or local facilities" and officials to implement a sentence of death in the manner prescribed.<sup>29</sup>

Between 2001 and 2003, the federal government carried out three executions using a three-drug cocktail, including sodium thiopental (a barbiturate), pancuronium bromide, and potassium chloride.<sup>30</sup> In January 2011, the sole American manufacturer of sodium thiopental stopped production after it faced pressure to guarantee that the drug would not be used in capital punishment.<sup>31</sup> The federal government announced that it did not have any reserves of sodium thiopental for lethal injections,<sup>32</sup> and federal courts prevented the importation of sodium thiopental from foreign manufacturers without approval from the Food and Drug Administration

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<sup>23</sup> *Capital Punishment*, Federal Bureau of Prisons, [https://www.bop.gov/about/history/federal\\_executions.jsp](https://www.bop.gov/about/history/federal_executions.jsp) (last visited Dec. 30, 2024).

<sup>24</sup> See Crimes Act of 1790, ch. 9 § 33, 1 Stat. 112, 119.

<sup>25</sup> An Act of June 19, 1937, ch. 367, 50 Stat. 304, 304.

<sup>26</sup> Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181.

<sup>27</sup> 28 C.F.R. Part 26.

<sup>28</sup> Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994).

<sup>29</sup> See 18 U.S.C. §§ 3596-3597.

<sup>30</sup> *BOP Execution Protocol*, Federal Bureau of Prisons (undated version prior to 2004 update,) (on file).

<sup>31</sup> *Statement from Hospira regarding its halt of production of Pentothal (sodium thiopental)* (Jan. 21, 2011), <https://dpic-cdn.org/production/legacy/HospiraJan2011.pdf> (last visited Dec. 30, 2024); see also Erik Eckholm & Katie Zezima, *States Face Shortage of Key Lethal Injection Drug*, N.Y. Times (Jan. 21, 2011) <https://www.nytimes.com/2011/01/22/us/22lethal.html>.

<sup>32</sup> See *Roane v. Leonhart*, 741 F.3d 147, 149 (2014); see also Letter from Attorney General Eric Holder to the National Association of Attorneys General (Mar. 4, 2011), <https://files.deathpenaltyinfo.org/legacy/documents/2011.03.04.holder.letter.pdf> (last visited Dec. 30, 2024).

(FDA).<sup>33</sup> No federal executions occurred after 2003, until the Department revised the execution protocol to use only a single drug, pentobarbital, and restarted executions in 2020.

c. Medically Approved Use of Pentobarbital

Pentobarbital is a barbiturate drug that the FDA has approved for use in humans as an emergency treatment for status epilepticus (seizures that occur in quick succession or that last longer than five minutes), as a short-term sedative to treat insomnia, or as a pre-anesthetic prior to surgery.<sup>34</sup> The therapeutic concentration of pentobarbital depends on the intended therapeutic effect. For example, the sedation dose is 1 to 5 mcg/mL. The standard injectable dose of pentobarbital is between 150 and 200 milligrams. Toxic doses of pentobarbital occur at approximately 1 gram in most adults, with death occurring at 2 to 10 grams.<sup>35</sup>

The FDA has approved the use of pentobarbital in animal euthanasia.<sup>36</sup> Typically, animal euthanasia products contain a combination of pentobarbital sodium and phenytoin sodium: the pentobarbital “produces rapid anesthetic action, unconsciousness, and depression of the respiratory and vasomotor centers,” while the phenytoin “causes cardiovascular collapse and/or central nervous system depression.”<sup>37</sup> According to the American Veterinary Medical Association, “[i]ntravenous injection of a barbituric acid derivative (e.g., pentobarbital, pentobarbital combination product) is the preferred method for euthanasia of dogs, cats, and other small companion animals,” and veterinarians may also first use a sedative prior to administering the barbiturate.<sup>38</sup> The dosage of the drug is typically determined by the animal’s body weight.

Pentobarbital has also been used in states with lawful medical aid in dying practices. Those states typically have developed a regulatory framework for physicians to prescribe lethal doses specific to the individual, often along with sedatives or other medications.<sup>39</sup> These prescriptions are all considered “off-label,” as they are not uses approved by the FDA. Notably,

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<sup>33</sup> In *Beatty v. Food & Drug Admin.*, 853 F. Supp.2d 30 (D.D.C. 2012), the district court considered an action brought by inmates on death row and held that the FDA violated the APA by improperly allowing the shipment of drugs from abroad to states to use in capital punishment. The D.C. Circuit affirmed. *Cook v. Food & Drug Admin.*, 733 F.3d 1 (D.C. Cir. 2013).

<sup>34</sup> *Orange Book: Approved Drug Products with Therapeutic Equivalence Evaluations*, Food & Drug Admin., [https://www.accessdata.fda.gov/scripts/cder/ob/search\\_product.cfm](https://www.accessdata.fda.gov/scripts/cder/ob/search_product.cfm) (last visited Dec. 30, 2024).

<sup>35</sup> See Anna B. Johnson & Nazia M. Sadiq, *Pentobarbital*, StatPearls, National Library of Medicine (Feb. 25, 2024), <https://www.ncbi.nlm.nih.gov/books/NBK545288/> (last visited Dec. 30, 2024).

<sup>36</sup> *Animal Drugs*, Food & Drug Admin., <https://animaldrugsatfda.fda.gov/adafda/views/#/home/searchResult> (search results for “animal euthanasia”) (last visited Dec. 30, 2024).

<sup>37</sup> M. B. Forrester, *Human exposure to pentobarbital-phenytoin combination veterinary drugs*, *Human & Experimental Toxicology* (2017), <https://journals.sagepub.com/doi/10.1177/0960327116661398> (last visited Dec. 30, 2024).

<sup>38</sup> *AVMA Guidelines for the Euthanasia of Animals: 2020 Edition*, American Veterinary Medical Association, at 57, <https://www.avma.org/sites/default/files/2020-02/Guidelines-on-Euthanasia-2020.pdf>.

<sup>39</sup> See, e.g., *Oregon Death with Dignity Act: 2023 Data Summary*, Oregon Health Authority (2024), <https://www.oregon.gov/oha/ph/providerpartnerresources/evaluationresearch/deathwithdignityact/documents/year26.pdf>.

a 2019 opinion from the Office of Legal Counsel concluded that the FDA did not have jurisdiction to regulate drugs used in executions.<sup>40</sup>

While several states have used pentobarbital in executions as a single-drug injection,<sup>41</sup> the FDA has not reviewed or approved of the use of pentobarbital in high doses or for the purpose of causing death. In addition, the primary manufacturer of injectable pentobarbital that has been approved by the FDA, the Danish company Lundbeck, has restricted the use of the drug in capital punishment.<sup>42</sup> As a result, states and the federal government have not purchased injectable pentobarbital from drug manufacturers, but instead have found chemical companies that provide powdered active pharmaceutical ingredient (API) pentobarbital in bulk and then used compounding pharmacies to create an injectable solution.<sup>43</sup> According to the FDA, “[c]ompounded drugs are not FDA approved, which means the agency does not verify their safety, effectiveness or quality before they are marketed.”<sup>44</sup> Pharmacies that compound drugs in bulk, such as those typically contracted to produce lethal injection drugs, are required to register as Human Drug Compounding Outsourcing Facilities under Section 503B of the Food, Drug, and Cosmetic Act.<sup>45</sup> These facilities are advised by the FDA to comply with “current good

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<sup>40</sup> *Whether the Food and Drug Administration Has Jurisdiction over Articles Intended for Use in Lawful Executions*, Office of Legal Counsel, Dept. of Justice, 43 Op. \*1 (May 2, 2019). *But see In re Federal Bureau of Prisons’ Execution Protocol*, 980 F.3d 123, 136 (D.C. Cir. 2020) (“There is no dispute that pentobarbital is a drug regulated under the FDCA... . Nor is there any dispute that pentobarbital is the type of drug that the FDCA requires to be dispensed only through a prescription issued by a licensed medical professional... . There likewise is no question that prisoners are generally entitled to the protections of the FDCA’s prescription requirement.” (citations omitted)).

<sup>41</sup> On the state level, 194 individuals in 8 states have been executed using pentobarbital as the sole lethal substance beginning in 2011: Arizona (11 executions between 2/29/12 - 10/23/13 and 5/11/22 - 11/16/22), Georgia (25 executions between 2/21/13 - 3/20/24), Idaho (1 execution on 6/12/12), Missouri (32 executions between 11/20/13 - 9/24/24), Ohio (10 executions between 3/10/11 - 9/25/13), South Carolina (2 executions between 9/20/24 - 11/1/24), South Dakota (4 executions between 10/15/12 - 11/04/19), and Texas (109 executions between 7/18/12 - 10/01/24). In total, 14 states have used pentobarbital in executions. Five other states plan to use pentobarbital: Kentucky, Louisiana, Montana, North Carolina, and Tennessee. *See State-by-State Execution Protocols*, Death Penalty Information Center, <https://deathpenaltyinfo.org/state-lethal-injection> (last visited Dec. 30, 2024).

<sup>42</sup> David Jolly, *Danish Company Blocks Sale of Drug for U.S. Executions*, N.Y. Times (Jul. 1, 2011), <https://www.nytimes.com/2011/07/02/world/europe/02execute.html>.

<sup>43</sup> Recent reporting described the compounding pharmacy working with the Texas Department of Criminal Justice to provide pentobarbital between 2019 and 2023. The reporting found that the pharmacy was “cited more than a dozen times over the past decade” by the Texas State Board of Pharmacy for “fail[ing] to maintain clean and sterile facilities and fail[ing] to keep complete and correctly labeled records and drugs in stock, among other violations.” Chiara Eisner, *Unmarked cards and secret orders: How a pharmacy prepared drugs for Texas’ executions*, NPR (Jul. 10, 2024), <https://www.npr.org/2024/07/10/g-s1-9016/unmarked-cars-and-secret-orders-how-a-pharmacy-prepared-drugs-for-texas-executions>. The report also noted that a pharmacy owned by the same family was sued by the Department of Justice for “dispensing powerful opioids to people without valid prescriptions, falsifying hundreds of prescriptions for controlled substances and ignoring serious red flags that indicated people intended to abuse their medications.” *Id.*; see also Hayley Bedard, *NPR Investigation Reveals Supplier of Texas Execution Drugs Has Multiple Drug Enforcement Agency Violations; Questions Remain Regarding Drug Acquisition in Other States*, Death Penalty Information Center (Jul. 11, 2024), <https://deathpenaltyinfo.org/npr-investigation-reveals-supplier-of-texas-execution-drugs-has-multiple-drug-enforcement-agency-violations-questions-remain-regarding-drug-acquisition-in-other-states>.

<sup>44</sup> *Human Drug Compounding*, Food & Drug Admin., <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/human-drug-compounding> (last visited Dec. 30, 2024).

<sup>45</sup> *Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act: Guidance for Industry*, Food & Drug Admin. (May 2018), <https://www.fda.gov/media/97359/download>.

manufacturing practice,”<sup>46</sup> and are subject to FDA inspection “according to a risk-based schedule.”<sup>47</sup> As of the date of this report, there are 88 compounding pharmacies registered as 503B outsourcing facilities, 31 of which have never been inspected by the FDA. In 55 of the 57 facilities that have been inspected, FDA officials have issued a Form 483, officially noting “significant objectional conditions” at the facility.<sup>48</sup>

Some state lethal injection protocols include the administration of a sedative prior to execution, but those states require a physician to prescribe the sedative.<sup>49</sup> On the federal level, the Bureau of Prisons (BOP) has determined that in order to administer a sedative prior to execution, a prescription would be required, which would in turn require the participation of a medical professional.<sup>50</sup> It is internal BOP policy that the BOP medical staff do not administer drugs in connection with the execution process.<sup>51</sup> Moreover, states that involve medical professionals in the execution process rely on those professionals doing so at their own risk, and likely rely on extensive state secrecy statutes.<sup>52</sup> The American Medical Association’s code of ethics prohibits physician participation in a legally authorized execution.<sup>53</sup>

## II. Review of the Federal Execution Protocol Addendum

### a. BOP’s Development of the 2019 Addendum to the Federal Execution Protocol

In 2017, in a memorandum to the Attorney General, the Director of BOP requested approval to issue an Addendum to its Federal Execution Protocol that provided only for “the use of a single drug, phenobarbital sodium (pentobarbital), as the lethal agent.”<sup>54</sup> The proposed addendum also specified procedural details such as dosage, identification of appropriate injection sites, and the number of backup syringes.<sup>55</sup> The memorandum detailed the development of the

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<sup>46</sup> *Guidance Document: Current Good Manufacturing Practice*, Food & Drug Admin. (Jan. 2020), <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/current-good-manufacturing-practice-guidance-human-drug-compounding-outsourcing-facilities-under>.

<sup>47</sup> *See Compounding and the FDA: Questions and Answers*, Food & Drug Admin. <https://www.fda.gov/drugs/human-drug-compounding/compounding-and-fda-questions-and-answers> (last visited Dec. 30, 2024).

<sup>48</sup> *See Registered Outsourcing Facilities*, Food & Drug Admin., <https://www.fda.gov/drugs/human-drug-compounding/registered-outsourcing-facilities> (last visited Dec. 30, 2024) (noting that a Form 483 “does not constitute a final agency determination of whether any condition is in violation of the [Food, Drug, and Cosmetic] Act or any relevant regulations”).

<sup>49</sup> *See, e.g., Georgia Diagnostic and Classification Prison Lethal Injection Procedures*, Georgia Dept. of Corrections (Jul. 17, 2012), <https://dpic-cdn.org/production/legacy/GeorgiaProtocol07.17.2012.pdf> (last visited Dec. 30, 2024).

<sup>50</sup> Dep. of Rick Winter, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-0145 (D.D.C. Sept. 20, 2020) (on file).

<sup>51</sup> *Id.*

<sup>52</sup> *See* Nadia N. Sawicki, *Clinicians’ Involvement in Capital Punishment - Constitutional Implication*, 371 N. Engl. J. Med. vol 2. 103-105 (2014); *see also* Nadia N. Sawicki, *Doctors, Discipline, and the Death Penalty*, 27 Yale L. & Pol’y Rev. 107 (2008).

<sup>53</sup> *Opinion 9.7.3, Capital Punishment*, American Medical Association, <https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/9.7.3.pdf> (last visited Dec. 30, 2024).

<sup>54</sup> Memorandum from the Federal Bureau of Prisons, *Approval of Bureau of Prisons’ Death Penalty Protocol Addendum* (Nov. 27, 2017) (on file) [hereinafter “2017 BOP Memo”].

<sup>55</sup> *Id.*

addendum, including a review of state protocols, visits to state execution sites, and consultations with other Department components.<sup>56</sup> In the course of its review, BOP considered several alternatives to using pentobarbital in a single dose,<sup>57</sup> but determined that due to “complications inherent in obtaining multiple drugs” a single-drug pentobarbital protocol “was the most suitable method based on its widespread use by the states and its acceptance by many courts.”<sup>58</sup>

In anticipation of future litigation, BOP retained a consulting firm, Elite Medical Experts,<sup>59</sup> to identify medical experts to review the addendum and prepare to testify about it in court.<sup>60</sup> The firm identified two medical professionals to review the addendum: Dr. Craig W. Lindsley of the Vanderbilt Center for Neuroscience Drug Discovery, and Dr. Joseph F. Antognini, a clinical professor of anesthesiology and pain medicine at the University of California Davis School of Medicine.

Dr. Lindsley submitted a 550-word report stating that in his expert opinion and “deep knowledge of the pharmacology of pentobarbital,” the protocol would “produce a humane death with limited suffering and pain.”<sup>61</sup> He wrote that, in his view, a person would lose consciousness within 10 to 30 seconds after being administered 5 grams of pentobarbital and would “be unaware of any pain or suffering due to the rapidity of the effect.” Although he stated that he reviewed “the available literature and case studies in the public domain,” his report did not include any citations.<sup>62</sup>

According to BOP’s memorandum, Dr. Antognini did not submit a separate written evaluation of the protocol, but he “concur[ed] with the Addendum” and was “prepared to submit an expert report in defense of the protocol.”<sup>63</sup> Despite later testifying that BOP was aware of experts with conflicting views on pentobarbital, a BOP representative stated that “[a]fter consulting with [Dr. Lindsley and Dr. Antognini], we didn’t feel it was necessary to reach out to more.”<sup>64</sup>

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<sup>56</sup> *Id.*

<sup>57</sup> Prior to the identification of a domestic pentobarbital supplier, BOP considered the use of fentanyl as the lethal substance. See Memorandum from the Federal Bureau of Prisons, *Use of Fentanyl in Executions* (Mar. 7, 2018) (on file).

<sup>58</sup> 2017 BOP Memo, *supra* note 54, at 4.

<sup>59</sup> Today, Elite Medical Experts describes its mission as “align[ing] the top minds in healthcare – Professors of Medicine & Surgery – as experts in complex litigation.” According to its website, “[w]ith nearly 8000 engagements domestically and abroad, Elite solves challenges so that our clients win.” See *History & Mission*, Elite Medical, <https://elitemedicalexperts.com/history-mission/> (last visited Dec. 30, 2024).

<sup>60</sup> The review was coordinated through, and paid for by, the United States Attorney’s Office in D.C. in anticipation of future litigation.

<sup>61</sup> Lindsley Report, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file) [hereinafter “Lindsley Report”].

<sup>62</sup> *See id.*

<sup>63</sup> 2017 BOP Memo, *supra* note 54.

<sup>64</sup> Decl. of Rick Winter, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file).

Regarding the sourcing of pentobarbital, BOP initially intended to import powdered API pentobarbital from a foreign registered facility.<sup>65</sup> In a revised version of the memorandum from July 2019, however, BOP indicated it had identified a domestic source willing to provide the base ingredients and a compounding pharmacy to develop and produce the drug for executions.<sup>66</sup>

In July 2019, Attorney General Barr directed BOP to adopt an addendum to the Federal Execution Protocol that provided for the use of pentobarbital.<sup>67</sup> Four individuals on the federal death row brought suit to prevent BOP's use of the protocol, alleging that the protocol was unlawful and unconstitutional. A district court issued a preliminary injunction to prevent BOP from carrying out executions under the revised protocol, finding that the protocol "exceed[ed] the statutory authority" of the Federal Death Penalty Act insofar as it "create[d] a single implementation procedure" not authorized by the Act.<sup>68</sup> The U.S. Court of Appeals for the D.C. Circuit, however, vacated that injunction.<sup>69</sup> In June 2020, the Department announced Attorney General Barr had directed BOP to schedule the execution of four inmates,<sup>70</sup> the first of whom was executed on July 14, 2020,<sup>71</sup> a few hours after the U.S. Supreme Court vacated a district court order to stay the execution.<sup>72</sup> In total, 13 people were executed using the BOP's single-drug protocol between July 2020 and January 2021.<sup>73</sup>

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<sup>65</sup> See 2017 BOP Memo, *supra* note 54, at 1 (stating "BOP also believes it has a viable plan to obtain pentobarbital. BOP intends to import powdered pentobarbital from a foreign FDA-registered facility" and would use a domestic compound pharmacy to create the injectable solution).

<sup>66</sup> After press reports publicly identified the BOP's source for pentobarbital API, the company announced that it would no longer manufacture pentobarbital. See Lauren Gill & Daniel Moritz-Rabson, *Company Linked to Federal Execution Spree Says it Will no Longer Produce Key Drug*, *The Intercept* (Jun. 22, 2024), <https://theintercept.com/2024/06/22/pentobarbital-execution-drug-absolute-standards/>.

<sup>67</sup> See Memorandum from the Federal Bureau of Prisons, *The Federal Bureau of Prisons' Federal Execution Protocol Addendum* (Jul. 24, 2019) (adopted and signed by the Attorney General) (on file) [hereinafter "FBOP Protocol Memorandum"].

<sup>68</sup> *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 19-mc-145, 2019 WL 6691814, at \*7 (D.D.C. Nov. 20, 2019) ("There is no statute that gives the BOP or DOJ the authority to establish a single implementation procedure for all federal executions.").

<sup>69</sup> *In re Federal Bureau of Prisons' Execution Protocol Cases*, 955 F.3d 106 (D.C. Cir. 2020).

<sup>70</sup> See *Executions Scheduled for Four Federal Inmates Convicted of Murdering Children*, U.S. Dep't of Just. (June 15, 2020), <https://www.justice.gov/opa/pr/executions-scheduled-four-federal-inmates-convicted-murdering-children>.

<sup>71</sup> Haley Fuchs, *Government Carries Out First Federal Execution in 17 Years*, *N.Y. Times* (July 14, 2020), <https://www.nytimes.com/2020/07/14/us/politics/daniel-lewis-lee-execution-crime.html>.

<sup>72</sup> *Barr*, 591 U.S. at 980 (noting that pentobarbital had been "used to carry out over 100 executions, without incident," and had been "repeatedly invoked by prisoners as a less painful and risky alternative to the lethal injection protocols of other jurisdictions").

<sup>73</sup> As previously noted, the Department amended 28 CFR Part 26, "Death Sentence Procedures," in November 2020. A discussion of those changes is below. See *infra*, at 19.

## b. OLP's Review

As directed by the Attorney General, OLP undertook a comprehensive review of the federal execution protocol addendum. OLP consulted with experts, including academics, medical professionals, drug safety experts, and advocacy groups. OLP also conducted a literature review, including legal materials and medical and scientific research specifically related to the use of pentobarbital. OLP reviewed all available documentation related to prior executions using pentobarbital, including autopsy reports and witness accounts. OLP reviewed state execution protocols<sup>74</sup> and consulted with state representatives. OLP also consulted relevant Department components, including BOP, the U.S. Marshals Service, the Criminal Division, the Civil Division, the Office of the Solicitor General, the Drug Enforcement Administration, the Civil Rights Division, the Bureau of Justice Statistics, and the National Institute of Justice. And OLP consulted with other federal agencies, including the Department of Health and Human Services. In addition, in September 2022, OLP published a request for information in the Federal Register.<sup>75</sup> The request yielded comments from the Federal Capital Habeas Project, experienced capital counsel, and members of Congress.

The primary areas of concern related to the use of pentobarbital include the risk of flash pulmonary edema; pain associated with the injection of a highly alkaline solution into the bloodstream; and the lack of clarity as to whether pentobarbital causes individuals to become unconscious, and therefore incapable of feeling pain, or simply unresponsive. Based on recent medical research evaluating autopsy data from executions that used pentobarbital, information collected from autopsies conducted on two individuals recently executed by the federal government, recent witness accounts from federal and state executions, and a review of medical expert testimony in litigation, OLP concludes that there remains significant uncertainty about whether pentobarbital can be used in a single-drug execution protocol without causing unnecessary pain and suffering.

## c. Risk of Flash Pulmonary Edema

A review of available research and consultation with academics indicates that there is a risk of flash (acute) pulmonary edema with the use of pentobarbital in executions.<sup>76</sup> Pentobarbital is a barbiturate, and flash pulmonary edema is a complication of barbiturate overdose. It occurs through several mechanisms, including direct caustic injury to the lungs, negative pressure pulmonary edema as the individual struggles to breathe against an obstructed airway, and diminished power of contraction by the heart.<sup>77</sup> As pulmonary edema can cause “a

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<sup>74</sup> See Appendix (State Execution Protocols).

<sup>75</sup> Request for Information Regarding the Manner of Execution Regulations, 87 Fed. Reg. 58531 (Sept. 27, 2022) <https://www.federalregister.gov/documents/2022/09/27/2022-20889/request-for-information-regarding-the-manner-of-execution-regulations>.

<sup>76</sup> Although the research into pentobarbital is limited, the available research conforms with findings made in other drugs. See M W Potts & P W Smethurst, *Pleural effusion complicating thiopentone administration. A case report*, 39(1) Br J Anaesth. (1967) (finding pulmonary edema developing after the administration of sodium thiopental).

<sup>77</sup> Jin Ma et al., *Negative Pressure Pulmonary Edema*, 26(2), Exp Ther Med. (Aug. 4, 2023), doi: 10.3892/etm.2023.12154.

feeling of suffocating or drowning that worsens when lying down,”<sup>78</sup> experts have likened it to the experience elicited during waterboarding.<sup>79</sup>

A 2022 study by physicians Joel Zivot, Mark Edgar, and David Lubarsky reviewed autopsy reports from eight states (Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, and Virginia) using pentobarbital as a single drug or using midazolam<sup>80</sup> in a drug cocktail.<sup>81</sup> The study noted that pentobarbital is a highly alkaline solution (pH between 9.8-11) and that “massive quantities of acidic or basic solution entering the bloodstream during lethal injection may be directly toxic to pulmonary capillary endothelial cells and that the earliest manifestation of this injury is the escape of edema fluid into the lungs.”<sup>82</sup> In essence, the drug’s pH level is so high that it damages the blood vessels in the lungs and causes them to fill with fluid, leading to the feeling of drowning.

In their review of autopsy findings of 15 individuals executed by a protocol involving pentobarbital, Zivot, Edgar, and Lubarsky found evidence of lung edema in 10 of 15 cases, or 66 percent. This was evidenced by the “presence of froth, frothy fluid or blood-tinged froth located in the in the tracheobronchial tree... or fluid in lung parenchyma or small airways.”<sup>83</sup> The authors noted froth in the airways “requires breathing to create froth, so the timing of pulmonary edema must, [by] definition, occur prior to the administration of a paralyzing agency or heart stopping medication.”<sup>84</sup>

Finally, the authors wrote that for people who experience sudden death, which is the intended effect of lethal injection, the weight of a person’s lungs after death should approximate normal lung weight, or an average of 234 grams.<sup>85</sup> Among the autopsies examined of those executed by lethal injection, however, “lung weights observed in this study were all above 400 grams (average weights for right and left lungs, respectively, in... pentobarbital executions 723 grams and 631 grams), indicating some combination of vascular congestion and parenchymal edema.”<sup>86</sup>

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<sup>78</sup> *Pulmonary edema: Sudden (acute) pulmonary edema signs and symptoms*, Mayo Clinic, <https://www.mayoclinic.org/diseases-conditions/pulmonary-edema/symptoms-causes/syc-20377009> (last visited Jan. 3, 2024).

<sup>79</sup> Noah Caldwell, Ailsa Chang & Jolie Myers, *Gasping for Air: Autopsies Reveal Troubling Effects of Lethal Injection*, NPR (Sept. 21, 2020), <https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection> [hereinafter “NPR Report”].

<sup>80</sup> Midazolam is a benzodiazepine, while pentobarbital is a barbiturate. Both drugs act to depress the central nervous system but affect the functioning of the nervous system in different ways. See Thejasvi N. Lingamchetty, Seyed Alireza Hosseini & Abdolreza Saadabadi, *Midazolam*, StatPearls, National Library of Medicine (June 5, 2023), <https://www.ncbi.nlm.nih.gov/books/NBK537321/> (last visited Jan. 3, 2024).

<sup>81</sup> Joel B. Zivot, Mark A. Edgar & David Lubarsky, *Execution by lethal injection: Autopsy findings of pulmonary edema*, (2022), doi.org/10.1101/2022.08.24.22279183 [hereinafter “Zivot Study”].

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* (citing Hans Joachim, Ursus Nikolaus Riede & Christian Mittermayer, *The Weight of Human Lungs as a Diagnostic Criterion (Distinction of Normal Lungs from Shock Lungs by Histologic, Morphometric and Biochemical Investigations)*, 162(1) *Pathology - Research and Practice*, 24-40 (May 1978), doi.org/10.1016/S0344-0338(78)80129-0).

<sup>86</sup> Zivot Study, *supra* note 81.

NPR also recently released a detailed report that reviewed 216 autopsies that involved an internal examination of the lungs, some of which were likely reviewed by Zivot, Edgar, and Lubarsky's study.<sup>87</sup> In state executions that used pentobarbital as a single drug, 47 out of 58 autopsies were found to have signs of edema determined.<sup>88</sup>

Two autopsies were conducted after recent federal executions with pentobarbital, and both showed signs of pulmonary edema. First, the Associated Press (AP) reported on an autopsy of Corey Johnson's body following his execution in January 2021, and while the autopsy has not been made public, the AP reported that Johnson suffered from pulmonary edema and that "so much fluid rushed up his trachea that some exited his mouth."<sup>89</sup> Second, the autopsy of Wesley Purkey's body following his federal execution in July 2020, also found "severe bilateral acute pulmonary edema" and evidence of "[f]rothy pulmonary edema" in Purkey's trachea and mainstem bronchi, suggesting that fluid had built up in his lungs.<sup>90</sup> The physician performing the autopsy weighed Purkey's lungs and found that his right lung weighed 1140 grams and his left lung weighed 1160 grams<sup>91</sup> (as compared to the approximate normal lung weight, an average of 234 grams<sup>92</sup>).

Given the rare and specific circumstances in which such large amounts of pentobarbital are injected into humans, there are not additional scientific studies that address the risk of flash pulmonary edema in the context of lethal injection. Nonetheless, Zivot, Edgar, and Lubarsky's study of autopsy reports, and the review of autopsies reported by NPR and the AP, suggest that pulmonary edema is a significant risk when pentobarbital is used in executions.

The autopsy data also provide support for the expert statements and declarations that have been used by legislators considering amending state execution protocols and by courts in litigation related to executions using lethal injections.

Dr. Mark Edgar, one of the co-authors of the study discussed above, and an Associate Professor of Pathology at Emory University, submitted a comment to the Montana Legislature as it considered legislation to change its execution protocol in 2021.<sup>93</sup> In his comment, Dr. Edgar

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<sup>87</sup> According to NPR, the reporters gathered 305 autopsy reports of inmates executed between 1990 and 2019 through public records requests or through evidence submitted in federal court cases, 216 of which contained an examination of the lungs. The states included Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, Tennessee and Virginia. Zivot, Edgar, and Lubarsky's study included 43 autopsy reports from Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, and Virginia. Therefore, while the NPR story includes a broader set of autopsies, it is likely there is overlap with those reviewed by Zivot, Edgar, and Lubarsky. See Zivot Study, *supra* note 81.

<sup>88</sup> See NPR Report, *supra* note 79.

<sup>89</sup> Michael Tarm, *Fuller Picture emerges of the 13 federal executions at the end of Trump's presidency*, AP News (Oct. 3, 2023), <https://apnews.com/article/trump-executions-biden-death-penalty-brandon-bernard-c1b26807c5c40b337d14485c3d6df2de>.

<sup>90</sup> See DeJong Autopsy report, *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file).

<sup>91</sup> *Id.*

<sup>92</sup> Zivot study, *supra* note 81.

<sup>93</sup> See Public Comment by Mark Edgar, Montana Senate Judiciary Committee (March 22, 2021), <https://archive.legmt.gov/bills/2021/Minutes/Senate/Exhibits/jus62a02.pdf>; see also Alex Sakariassen, *Revising lethal injection – and reviving a death penalty in legal limbo*, Montana Free Press (Feb. 3, 2021), <https://montanafreepress.org/2021/02/03/revising-lethal-injection-and-reviving-a-death-penalty-in-legal-limbo>.

stated that he had “found evidence of prisoners developing acute and severe pulmonary edema...in both pentobarbital and midazolam executions,” which, he argued, “produces sensations similar to drowning or asphyxiation as fluid occupies a greater volume of the air spaces.”<sup>94</sup> He also wrote that in his review of autopsies conducted after an execution using pentobarbital, “at least two-thirds...showed findings consistent with development of acute pulmonary edema” during the execution, which he characterized as a “terrifying, horrific and painful condition that causes great suffering as the person struggles to breathe without being able to exchange air because of the compromised lungs.”<sup>95</sup>

Dr. Gail Van Norman, a practicing internist and anesthesiologist and Adjunct Professor of Bioethics at the University of Washington, submitted an expert declaration on the risk of flash pulmonary edema in lethal injection executions involving pentobarbital.<sup>96</sup> She stated that the single-drug pentobarbital protocol would “subject executed prisoners to severe pain and suffering, when they remain conscious and aware prior to their deaths.”<sup>97</sup> Dr. Van Norman described flash pulmonary edema as occurring extremely rapidly, stating that the “administration of a large dose of barbiturate causes lung injury, which in turn causes flash pulmonary edema.”<sup>98</sup> She stated that as pulmonary edema sets in, the person has to “work harder and harder to breathe, and suffers sensations of shortness of breath and excruciating air hunger, similar to the sensations experienced in drowning and near-drowning victims.”<sup>99</sup> She also noted that the drowning sensation is “one of the most powerful, excruciating feelings known to man,” and is “deliberately elicited in ‘the enhanced interrogation technique’ called waterboarding.”<sup>100</sup>

d. Risk of pain associated with the injection of a highly alkaline solution

In addition to concerns related to flash pulmonary edema, experts have warned that the use of high amounts of pentobarbital in a single-drug execution protocol could cause extreme pain upon the initial injection. As Zivot, Edgar, and Lubarsky describe in their study of autopsies pentobarbital is highly alkaline with a pH level between 9.8 and 11, and is like other barbiturates that “have long been known to cause vascular injury if improperly administered.”<sup>101</sup>

Here again, given the rare circumstances in which such large amounts of pentobarbital are injected into humans, there are not specific scientific studies that evaluate the risk of pain in the context of lethal injection. Nonetheless, studies have noted that barbiturates can damage the veins in the body, causing the drug to leak into the surrounding tissue.<sup>102</sup> In Dr. Van Norman’s opinion, “[p]entobarbital can cause excruciating pain if injected rapidly into veins, particularly if

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<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> See Declaration of Dr. Van Norman submitted Nov. 1, 2019, at 31, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp. 3d 209 (D.D.C. 2020) (*vacated sub nom. Barr*, 591 U.S. 979) (on file) [hereinafter “2019 Van Norman Decl.”].

<sup>97</sup> Declaration of Dr. Van Norman submitted Sept. 29, 2020, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020)) (on file).

<sup>98</sup> *Id.*

<sup>99</sup> 2019 Van Norman Decl. at 31, *supra* note 96.

<sup>100</sup> *Id.* at 34.

<sup>101</sup> Zivot Study, *supra* note 81, at 7.

<sup>102</sup> See Shibata Y. et al., *Injury due to extravasation of thiopental and propofol: risks/effects of local cooling/warming in rats*, 8 *Biochem Biophys Rep.*, 207-11 (2016), <https://pubmed.ncbi.nlm.nih.gov/28955958/>.

extravasation [where IV fluid leaks from the veins] or infiltration of the peripheral IV catheter occurs, or if inadvertent intra-arterial injection occurs.”<sup>103</sup> In these cases, she argues, it would cause “significant, excruciating pain for prisoners undergoing judicial lethal injection with IV barbiturates.”<sup>104</sup>

c. Witness accounts

In light of the limited research and unanswered questions about the risks of pulmonary edema and pain associated with lethal injection by pentobarbital, witness accounts take on greater significance and provide important anecdotal evidence. Witness accounts from the 13 federal executions using pentobarbital are particularly relevant.<sup>105</sup> In February 2021, AP News reported that “executioners who put [those] 13 inmates to death in the last months of the Trump administration likened the process of dying by lethal injection to falling asleep...but those tranquil accounts are at odds with reports by The Associated Press and other media witnesses of how prisoners’ stomachs rolled, shook and shuddered as the pentobarbital took effect inside the U.S. penitentiary death chamber in Terre Haute, Indiana.”<sup>106</sup> During the execution of Alfred Bourgeois in 2020, witnesses reported that he “grimaced and furrowed his eyebrows. He began to exhale rhythmically, and his stomach started to quiver uncontrollably.”<sup>107</sup> It was observed during Lezmond Hall’s execution in 2020 that his “chest heaved” and his “stomach area began to throb.”<sup>108</sup> Similarly, in 2020, witnesses reported that William LeCroy’s “midsection quickly began to heave uncontrollably” after the pentobarbital was administered.<sup>109</sup> In addition, in 2020, eyewitnesses observed that as the drug was administered to Orlando Hall, he “appeared to wince briefly and twitched his feet...open[ing] his mouth wide, as if he was yawning...[e]ach time that was followed by short, seemingly labored breaths.”<sup>110</sup>

f. Consciousness versus responsiveness

It is not clear whether a person who receives 5 grams of pentobarbital can feel and experience the impact the drug has on the body. Throughout litigation related to the use of pentobarbital in lethal injection, experts have debated whether 5 grams of pentobarbital leaves a person in a state of disconnected consciousness, and therefore unable to experience impacts

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<sup>103</sup> 2019 Van Norman Decl. at 8, *supra* note 96.

<sup>104</sup> *Id.*

<sup>105</sup> Witness accounts of non-federal executions have also indicated a risk of pain and suffering. See Declaration of Dr. Edgar submitted October 24, 2019, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020).

<sup>106</sup> See Michael Tarm, *Executioners sanitized accounts of deaths in federal cases*, AP News (Feb. 17, 2021), <https://apnews.com/article/executioners-sanitized-accounts-of-death-25d133f59039150c2e308ba1a2a5caef>.

<sup>107</sup> Michale Tarm, *US Executes Louisiana truck driver who killed daughter*, 2, AP News (Dec. 11, 2020), <https://apnews.com/general-news-32f7e296aba11d7d749bb996cffe623b>.

<sup>108</sup> Michael Tarm & Felicia Fonseca, *Only Native American on federal death row executed*, AP News (Aug. 25, 2020), <https://apnews.com/general-news-d10a18eff9cdf43afda8810bf859949d>.

<sup>109</sup> Jennifer Henderson & Steve Almasy, *Federal government executes inmate who blamed murder victim for using witchcraft on him*, CNN (Sept. 22, 2020), <https://www.cnn.com/2020/09/22/us/federal-execution-william-lecroy/index.html>.

<sup>110</sup> Jill Salter, *US government executes man convicted of killing Texas teen*, AP News (Nov. 18, 2020), <https://apnews.com/article/kidnapping-coronavirus-pandemic-executions-terre-haute-william-barr-d25b85a78580efbacf899d6919cc1a15>.

including flash pulmonary edema,<sup>111</sup> or whether the drug leaves a person in a state of connected consciousness, in which they may or may not be physically responsive to pain of pulmonary edema but are experiencing that pain.<sup>112</sup>

This question is unanswered by scientific study in the context of capital punishment, and it remains debated even within clinical settings involving anesthesia.<sup>113</sup> Recent studies have sought to distinguish “connected consciousness” from “responsiveness.” While responsiveness can indicate connected consciousness, a lack of responsiveness “does not equate to the absence of internal or external awareness.”<sup>114</sup> Indeed, studies argue that while “a state of disconnected consciousness is the optimal level of anesthesia, as it likely avoids both awareness and the possible dangers of oversedation...there are no reliably tested indices that can discriminate between connected consciousness, disconnected consciousness, and complete unconsciousness.”<sup>115</sup>

### III. Conclusion

After an extensive review of available scientific, medical, and legal research; recent autopsies of individuals who have received lethal injections of pentobarbital; consultation with experts within and outside the Department; and solicitation and consideration of public comments, there remains significant uncertainty about whether the use of pentobarbital as a single-drug lethal injection causes unnecessary pain and suffering. In the face of such uncertainty, the Department should err on the side of

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<sup>111</sup> Dr. Lindsley’s report stated that he believed a person would lose consciousness within 10-30 seconds of administering 5g of pentobarbital, and respiratory depression or heart failure would ensue within minutes. He opined that even if edema occurred within one minute of administration, the brain would be so profoundly depressed that the person would not experience it. *See* Lindsley Report, *supra* note 61. BOP’s other retained expert, Dr. Joseph F. Antognini, stated: “It is my opinion, to a reasonable degree of medical and scientific certainty, that 1) the inmate would become unconscious within 20-30 sec after the initiation of the infusion of the pentobarbital, followed by respiratory arrest, cardiovascular collapse and death; 2) injection of massive doses (5 grams) of pentobarbital would not inflict mild, moderate or severe pain; 3) pulmonary edema, if it occurs ante-mortem, would not be perceived by the inmate because of the profound brain suppression caused by pentobarbital.” Declaration of Dr. Antognini submitted June 25, 2020, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020) (on file).

<sup>112</sup> *See* 2019 Van Norman Decl., *supra* note 96. Dr. Van Norman argued that “it is extremely likely that prisoners given even high doses of barbiturates retain consciousness long enough to experience pain and suffering during the execution process using single-drug pentobarbital.” She also argued that that Dr. Antognini, “despite decades of evidence to the contrary, appears to believe that unresponsiveness accurately predicts unconsciousness. This is a grave error.”

<sup>113</sup> *See* Javier Montupil et al., *The Nature of Consciousness in Anesthesia*, 8 *British Journal of Anesthesia Open* 100224 (2023), <https://pubmed.ncbi.nlm.nih.gov/37780201/>.

<sup>114</sup> *Id.* (citing Robert D. Sanders et al., *Unresponsiveness ≠ unconsciousness*, 116 *Anesthesiology* 946 (2012), <https://pubmed.ncbi.nlm.nih.gov/22314293/>); Charlotte Martial et al., *Near-Death Experience as a Probe to Explore (Disconnected) Consciousness*, 24(3) *National Library of Medicine* 173 (2020), <https://pubmed.ncbi.nlm.nih.gov/31982302/>; Melanie Boly et al., *Consciousness and responsiveness: lessons from anesthesia and the vegetative state*, 26(4) *Current Opinion in Anesthesiology* 444 (2013), <https://pubmed.ncbi.nlm.nih.gov/23743554/>.

<sup>115</sup> *See* Jiang Yandong & Jamie Sleight, *Consciousness and General Anesthesia: Challenges for Measuring the Depth of Anesthesia*, 140(2) *Anesthesiology* 313 (2024), <https://pubmed.ncbi.nlm.nih.gov/38193734/>; *see also* Vincent Bonhomme et al., *General Anesthesia: A Probe to Explore Consciousness*, 13 *Frontiers in Systems Neuroscience* 36 (2019), <https://pubmed.ncbi.nlm.nih.gov/31474839/>.

humane treatment and avoidance of unnecessary pain and suffering and cease the use of pentobarbital unless and until that uncertainty is resolved.

## Part 2 – Manner of Execution Regulations

### I. Background

The manner of execution by state and federal authorities has changed over the course of the nation's history. The Supreme Court canvassed that history in *Baze v. Rees*, and noted that “hanging was the ‘nearly universal form of execution’” by the middle of the 19th century,<sup>116</sup> but that widespread concerns about the inhumanity of hanging led to adoption of electrocution on the “well-grounded belief that electrocution is less painful and more humane than hanging.”<sup>117</sup> Although hanging, lethal gas, and firing squads were used for executions as well, until the late 20th century, electrocution was the predominant manner of execution. At that time, another round of public pressure to reconsider the optimal way to ensure a humane death by execution led states to turn to lethal injection as a preferred manner, and by the turn into the 21st century, the federal government and all of the state governments that implemented the death penalty adopted lethal injection.<sup>118</sup>

The federal, and most of the state, lethal injection protocols involved a three-drug “cocktail”: first a barbiturate to sedate the prisoner, second a paralytic to halt respiration, and third a lethal agent to induce cardiac arrest. The Department issued a regulation in 1993 providing for lethal injection to be the sole manner of execution, but that regulation did not specify which substance or substances would be used. By the time of the next three federal executions, which occurred in 2001-2003, an execution protocol had been developed that instructed the use of a “cocktail” of sodium thiopental, pancuronium bromide, and potassium chloride.<sup>119</sup> That protocol was refined and revised several times over subsequent years, but the three drugs remained the same.<sup>120</sup>

In 2011, the Department of Justice could no longer procure sodium thiopental. States were similarly unable to purchase that barbiturate for use in executions. Public pressure brought to bear on pharmaceutical companies to refuse to supply lethal execution drugs meant that alternative sources, or alternative drugs, needed to be acquired for executions by lethal injection to continue.<sup>121</sup> The Department addressed that challenge by amending the federal execution

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<sup>116</sup> *Baze*, 553 U.S. at 41 (citation omitted).

<sup>117</sup> *Id.* at 42 (quoting *Malloy v. South Carolina*, 237 U.S. 180, 185 (1915)).

<sup>118</sup> See Appendix. While lethal injection is the primary method used, some states have used alternative methods in recent years. As an example, Alabama (in 2002), South Carolina (in 2004 and 2008), and Virginia (in 2009, 2019, and 2013) have used electrocution in capital punishment.

<sup>119</sup> See *supra* Part 1, I(b) at 5-6.

<sup>120</sup> See *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 12-CV-0782, 2019 WL 6691814, at \*2 (D.D.C. Nov. 20, 2019).

<sup>121</sup> See *supra* note 31; see also Rebecca Katz, *Lethal Injection Challenges Continue Across the Country*, Am. Bar Assoc. (Mar. 1, 2012),

[https://www.americanbar.org/groups/committees/death\\_penalty\\_representation/project\\_press/2012/spring/li\\_challenges\\_continue/](https://www.americanbar.org/groups/committees/death_penalty_representation/project_press/2012/spring/li_challenges_continue/); Chris McGreal, *Lethal Injection Drug Production Ends in the US*, *The Guardian* (Jan. 23, 2011), <https://www.theguardian.com/world/2011/jan/23/lethal-injection-sodium-thiopental-hospira>.

protocol to require pentobarbital as the sole drug for lethal injection, and some states also began using pentobarbital, either as a substitute for sodium pentothal in a multi-drug “cocktail” or as a single drug lethal injection. But because the manufacturer of the injectable form of pentobarbital had also announced that it would not be supplying its product for use in executions, the Department needed to acquire the raw ingredient and have the injectable product made by a compounding pharmacy, as did several states.<sup>122</sup>

While some states still had statutorily authorized methods of execution in addition to lethal injection, they had mostly been using only lethal injections for some years. In addition to seeking alternative suppliers of execution drugs in the face of manufacturers’ refusal to supply them, states began to turn to – or turn back to – other methods of execution. Of the 27 states that currently employ the death penalty, all have lethal injection as a sole or possible manner of execution: 13 have it as the sole manner;<sup>123</sup> 4 have it as the default manner, if the prisoner does not select another method;<sup>124</sup> 6 have it as the default, but if lethal injection is unavailable or deemed unconstitutional, other methods become the default;<sup>125</sup> and 4 have it as one of several options available to the correctional authority or for the prisoner to choose among.<sup>126</sup>

Thus, when the Department resumed federal executions in 2020, it was in an atmosphere of increasing uncertainty about the consistent availability of drugs for executions, and also of awareness that states were in the same position, and thus could be expected to turn to other methods authorized by their own statutes. These realizations helped spur the amendments to the Manner of Federal Executions regulation, conducted through notice-and-comment rulemaking and finalized on November 27, 2020.<sup>127</sup>

## II. Review of the Manner of Execution Regulations

The Federal Death Penalty Act (FDPA) provides that a capital sentence in a federal case is to be implemented “in the manner prescribed by the law of the State in which the sentence is imposed.”<sup>128</sup> The FDPA further provides that federal authorities “may use appropriate State or local facilities for the purpose [of execution], may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof.”<sup>129</sup> In other words, a federal execution must be carried out in the manner that the State would, and the federal authorities may make use of State personnel and facilities for that execution.

The most significant revisions made to the manner of execution regulation in 2020, reflecting the Department’s awareness that it might confront a situation in which it was “required

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<sup>122</sup> See *supra* Part I, I(b) at 5-6.

<sup>123</sup> See Appendix (states include: Georgia, Indiana, Kansas, Kentucky, Montana, Nebraska, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, and Texas).

<sup>124</sup> *Id.* (states include Alabama, Arizona, California, and Florida).

<sup>125</sup> *Id.* (states include Arkansas, Idaho, Oklahoma, Tennessee, Utah and Wyoming).

<sup>126</sup> *Id.* (states include Louisiana, Missouri, Mississippi, and South Carolina).

<sup>127</sup> Manner of Federal Executions, Final Rule, 85 Fed. Reg. 75846 (Nov. 27, 2020), <https://www.federalregister.gov/documents/2020/11/27/2020-25867/manner-of-federal-executions>.

<sup>128</sup> 18 U.S.C. § 3596(a).

<sup>129</sup> 18 U.S.C. § 3597(a).

to execute a Federal inmate according to the law of a State that uses a method other than lethal injection,”<sup>130</sup> were to repeat those two statutory provisions in the text of the regulation itself. The expressed motivation for aligning the regulation with the statute was to eliminate possible legal arguments against using a manner other than lethal injection (should the law of the sentencing State require another manner), and the final rule’s explanatory text also made clear that the Department anticipated that, in such a case, “the most expedient means of carrying out the execution may be to arrange for State assistance.”<sup>131</sup>

Whatever the motivation for making these changes, however, the fact of the matter is that they simply reiterate what the FDPA already states; were these changes not made, or were they rescinded, the law would remain the same.

Much the same can be said for the 2020 amendments that reiterated the Attorney General’s broad delegation authority: The new regulatory language declares that “[a]ny task or duty assigned to any officer of the Department of Justice by this part may be delegated by the Attorney General to any other officer or employee of the Department of Justice.”<sup>132</sup> That adds no authority that the Attorney General does not already possess, by virtue of long-standing federal statute, namely that “[a]ll functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General,” and “[t]he Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.”<sup>133</sup>

Finally, that the 2020 amendments gave the Attorney General authority to make exceptions to the regulations, while not simply a repetition of existing statutory authority, ultimately is not a cause for undue concern. The new language introduced through the rulemaking declared that “[w]here applicable law conflicts with any provision of this part, the Attorney General may vary from that provision to the extent necessary to comply with the applicable law.”<sup>134</sup> It does not allow the Attorney General unfettered license to ignore or depart from the regulations’ requirements. Rather, it acknowledges that there could be otherwise controlling law that might conflict with the regulatory requirements, and that the Attorney General then would have to comply with the law – but only when, and to the extent, it was necessary to meet that law’s requirements.

Although there is nothing necessarily to modify or rescind in the manner of execution regulation, the pentobarbital evaluation described above compels the conclusion that the Attorney General should require such an evaluation of any other manner of execution before it is utilized by the federal government. The 2020 amendments to that regulation were undertaken in light of the changed operational facts about executions: It was increasingly likely that states would adopt alternative methods to lethal injection, it was a simple fact that the federal

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<sup>130</sup> Manner of Federal Executions, Proposed Rule, 85 Fed. Reg. 47324 (proposed Aug. 5, 2020), <https://www.federalregister.gov/documents/2020/08/05/2020-15039/manner-of-federal-executions>.

<sup>131</sup> *Id.*

<sup>132</sup> See 28 C.F.R. § 26.1(c).

<sup>133</sup> See 28 U.S.C. §§ 509–510 (2002).

<sup>134</sup> See 28 C.F.R. § 26.1(b).

government was only equipped with the apparatus and experience of lethal injection, and so a future execution might well involve the Department's availing itself of a state facility and personnel to conduct a federal execution.

Were that circumstance to come to pass – and the Notice of Proposed Rulemaking for the 2020 amendments<sup>135</sup> makes clear that the possibility of just such a circumstance motivated the rulemaking – the Department should adhere to its responsibility to treat individuals humanely and avoid unnecessary pain and suffering. If a federal execution is to take place by a manner of execution other than the lethal injection of pentobarbital, the same kind of evaluation of that manner should be done as was done here on pentobarbital, with the same consideration of the risks posed by that method. And if the Attorney General in that case is not confident that the manner of execution does not risk inhumane treatment or unnecessary pain and suffering, then the Bureau of Prisons should be ordered not to proceed.

If the Attorney General determines that the manner of execution itself does not risk inhumane treatment or unnecessary pain and suffering, but that the Federal Bureau of Prisons does not have the capability, experience, and expertise to implement an execution in that manner, the Attorney General should determine before proceeding that the implementation of the execution in those facilities and by those personnel will not create a risk of inhumane treatment or unnecessary pain and suffering.

### **III. Conclusion**

Because the amendments made in 2020 largely reflect statutory law, there is no present reason to modify or rescind them. However, if the federal government were required to conduct an execution by a manner other than lethal injection of pentobarbital, the Department should undertake an analysis of that manner like the one engaged in here with regard to pentobarbital before that other manner may be implemented.

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<sup>135</sup> See Manner of Federal Executions, Proposed Rule, 85 Fed. Reg. 47324 (proposed Aug. 5, 2020), <https://www.federalregister.gov/documents/2020/08/05/2020-15039/manner-of-federal-executions..>

**Appendix: State by State Execution Protocol (as of January 8, 2025)**

<b>State</b>	<b>Current Protocol/Statute</b>	<b>Determination</b>	<b>Most Recently Used</b>
Alabama	Lethal injection, nitrogen hypoxia, electrocution. (Protocol issued August 25, 2023) (Ala. Code § 15-18-82.1.c)	Person must affirmatively choose nitrogen hypoxia or electrocution.	Nitrogen Hypoxia (November 22, 2024)
Arizona	Lethal injection or lethal gas; lethal injection is the default. (Protocol issued April 20, 2022) (Ariz. Rev. Stat. § 13-757)	If person was sentenced before November 23, 1992, they may select lethal gas.	1-drug pentobarbital (November 16, 2022)
Arkansas	Lethal injection; if needed, electrocution. <i>Protocol not publicly available.</i> (Ark. Code Ann. § 5-4-617)	If lethal injection is deemed “invalidated by a final and unappealable court order” then electrocution.	3-drug lethal injection, beginning with midazolam (April 27, 2017)
California	Lethal injection or lethal gas; lethal injection is the default. <i>No current protocol in place.</i> (Cal. Penal Code § 3604)	Person may request lethal gas.	Lethal injection (January 17, 2006) <i>Gubernatorial moratorium</i>
Florida	Lethal injection or electrocution. (Protocol issued March 10, 2023) (Fla. Stat. Ann. § 922.105)	Person must affirmatively choose electrocution.	3-drug lethal injection, beginning with etomidate (August 29, 2024)
Georgia	Lethal injection of pentobarbital. (Protocol issued July 17, 2012) (Ga. Code Ann. § 17 – 10-38)		1-drug lethal injection, pentobarbital (March 20, 2024)
Idaho	Lethal injection or firing squad. (Protocol issued October 11, 2024) (Idaho Code Ann. § 19 – 2716)	The Director of the IDOC must determine if lethal injection is available.	1-drug lethal injection, pentobarbital (attempted February 28, 2024)
Indiana	Lethal injection. <i>Protocol not publicly available.</i> (Ind. Code Ann. § 35-38-6-1)		Lethal Injection (December 18, 2024)
Kansas	Lethal injection. <i>No current protocol in place.</i> (Kan. Stat. Ann. § 22-4001)		Hanging (June 22, 1965)

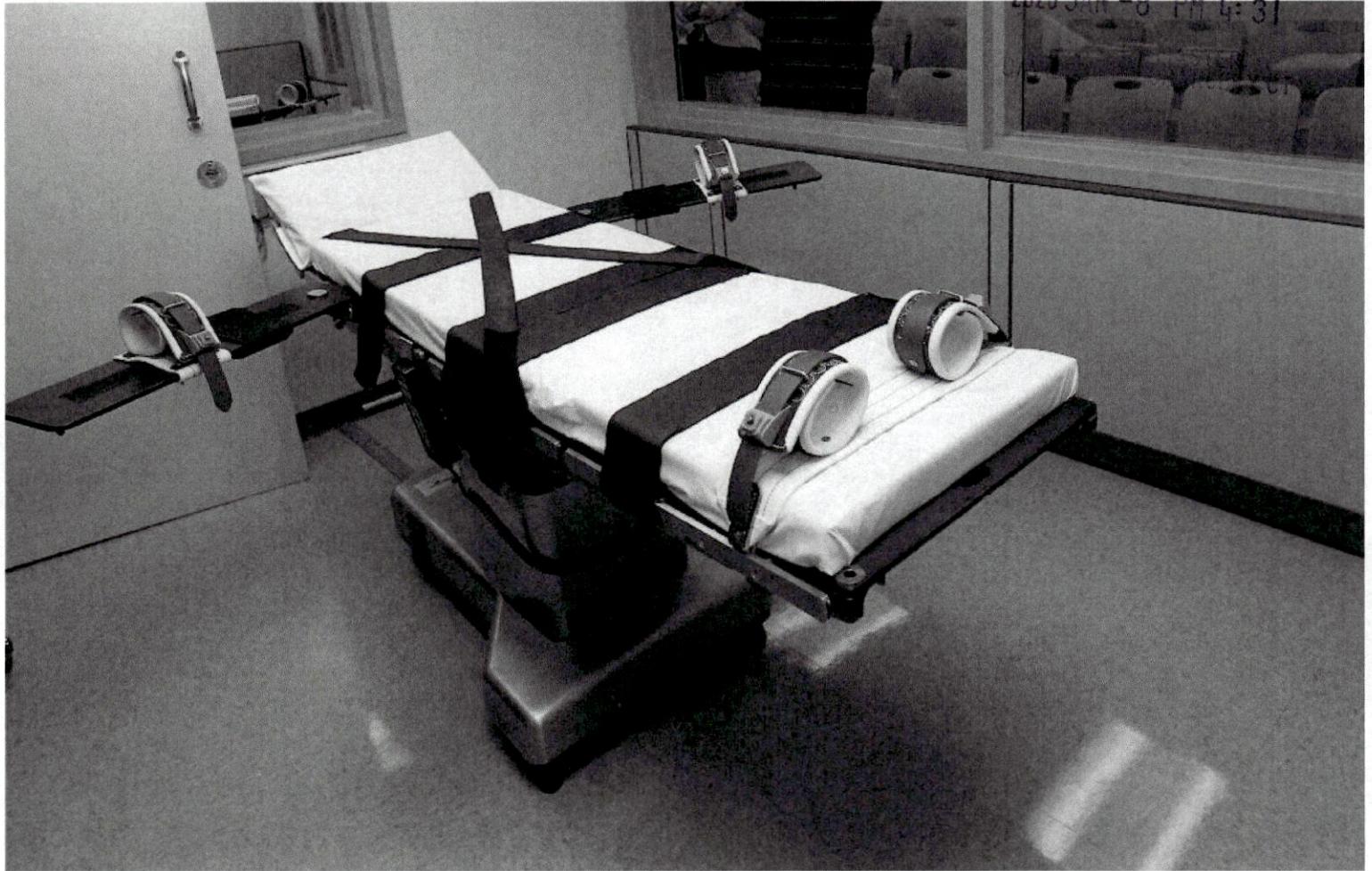
<b>State</b>	<b>Current Protocol/Statute</b>	<b>Determination</b>	<b>Most Recently Used</b>
Kentucky	Lethal injection of pentobarbital. (Protocol issued July 6, 2018)		3-drug lethal injection, beginning with sodium thiopental (November 21, 2008)
Louisiana	Lethal injection, nitrogen hypoxia, or electrocution. (Protocol Issued March 12, 2014) (La. Stat. Ann. § 15:569)	The method used is at the discretion of the secretary of the Department of Public Safety and Corrections.	3-drug lethal injection, beginning with sodium thiopental (January 7, 2010)
Mississippi	Lethal injection is the default option. Authorizes use of nitrogen hypoxia if either lethal injection is held unconstitutional or “otherwise unavailable”; then authorizes electrocution if nitrogen hypoxia and lethal injection are held unconstitutional or “otherwise unavailable”; finally authorizes firing squad if nitrogen hypoxia, lethal injection, and electrocution are held unconstitutional or “otherwise unavailable.” <i>Protocol not publicly available.</i> (Miss. Code Ann. § 99-19-51)	The Commissioner of Corrections has the authority and discretion to select and obtain the substances and the means necessary to carry out an execution.	3-drug lethal injection starting with midazolam (December 14, 2022)
Missouri	Lethal injection or lethal gas. (Protocol issued October 22, 2013) (Mo. Ann. Stat. § 546.720)	Unclear if person or the Director of the Missouri Department of Corrections selects method.	1-drug lethal injection, pentobarbital (December 3, 2024)
Montana	Lethal injection. (Protocol issued January 16, 2013)		3-drug lethal injection, beginning with sodium thiopental (August 11, 2006)
Nebraska	Lethal injection: by 4-drug protocol, including fentanyl citrate. (Protocol issued November 9, 2017)		4-drug lethal injection: diazepam, fentanyl citrate, cisatracurium besylate, potassium chloride (August 14, 2018)
Nevada	Lethal injection by 3-drug protocol, beginning with an opioid (fentanyl or alfentanil). (Protocol issued June 9, 2021)		Lethal Injection (April 26, 2006)

<b>State</b>	<b>Current Protocol/Statute</b>	<b>Determination</b>	<b>Most Recently Used</b>
North Carolina	Lethal injection by 3-drug protocol of pentobarbital. (Protocol issued October 24, 2013)		3-drug lethal injection, beginning with sodium thiopental (August 18, 2006)
Ohio	Lethal injection. <i>Protocol not publicly available.</i> (Ohio Rev. Code. Ann. § 2949.22)		3-drug lethal injection, beginning with midazolam (July 18, 2018) <i>Gubernatorial moratorium</i>
Oklahoma	Lethal injection is the default; authorizes use of nitrogen hypoxia if either lethal injection is held unconstitutional or “otherwise unavailable”; then authorizes electrocution if nitrogen hypoxia and lethal injection are held unconstitutional or “otherwise unavailable”; finally authorizes firing squad if nitrogen hypoxia, lethal injection, and electrocution are held unconstitutional or “otherwise unavailable.” (Protocol issued February 2020) (Okla. Stat. Ann. tit. 22 § 1014)	“An appellate court of competent jurisdiction” decides method.	3-drug lethal injection, beginning with midazolam (December 19, 2024)
Oregon	3-drug lethal injection protocol <i>Protocol not publicly available.</i> (Or. Rev. Stat. Ann. § 137.473)		3-drug lethal injection, beginning with sodium thiopental (May 16, 1997) <i>Gubernatorial moratorium</i>
Pennsylvania	Lethal injection. <i>Protocol not publicly available.</i> (61 Pa. Stat. and Cons. Stat. Ann. § 4304)		3-drug lethal injection, beginning with sodium thiopental (July 6, 1999) <i>Gubernatorial moratorium</i>
South Carolina	Electrocution, firing squad or lethal injection. <i>Protocol not publicly available.</i> (S.C. Code Ann. § 24-3-530)	Person must select firing squad or lethal injection “under the direction of the Director of the Department of Corrections.” If person fails to select a method, then the	1-drug lethal injection, pentobarbital (November 1, 2024)

State	Current Protocol/Statute	Determination	Most Recently Used
		penalty must be administered by electrocution.	
South Dakota	1-drug lethal injection: pentobarbital. (Protocol issued July 23, 2020) (S.D. Codified Laws § 23A-27A-32.1)		1-drug lethal injection, pentobarbital (November 4, 2019)
Tennessee	Lethal injection of pentobarbital or electrocution. (Tenn. Code Ann. § 40-23-114) <i>Protocol not publicly available.</i>	If crime committed before December 31, 1998, person may select electrocution. If lethal injection is deemed unconstitutional or unavailable, then electrocution will be used.	Electrocution (February 20, 2020)
Texas	Lethal injection. (Protocol issued April 2021)		1-drug lethal injection of pentobarbital (October 1, 2024)
Utah	Lethal injection or firing squad. <i>Protocol not publicly available.</i> (Utah Code Ann. § 77-18-5.5)	Authorizes firing squad if lethal injection is unavailable or held to be unconstitutional. Also, if person committed crime before May 3, 2004, they may select firing squad.	3-drug lethal injection including pentobarbital (August 8, 2024)
Wyoming	Lethal injection or lethal gas <i>Protocol not publicly available.</i> (Wyo. Stat. Ann. § 7-13-904)	Authorizes lethal gas if lethal injection is held to be unconstitutional.	3-drug lethal injection, beginning with sodium thiopental (January 22, 1992)

# Exhibit 5

September 11, 2025

*Sue Ogrocki / AP Photo (File)*

This 2014 file photo shows the gurney in the the execution chamber at the Oklahoma State Penitentiary. Lethal injections in several states, including Tennessee and Oklahoma, have caused pulmonary edemas.

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For the first time since Tennessee adopted a new lethal injection protocol, a post-execution autopsy has been released<<https://wpln.org/wp-content/uploads/sites/7/2025/09/Byron-Black-autopsy-report.pdf>>.

It shows that Byron Black, who was put to death Aug. 5, developed pulmonary edema — a form of lung damage that can cause a drowning sensation.

The lung damage could explain why Black showed distress as he died <https://wpln.org/post/tennessee-executes-byron-black-despite-worries-about-his-heart-implant/>. He groaned for several minutes, and told his bedside spiritual adviser he was in pain. However, his attorneys have raised concerns that the report failed to address other potential causes, such as a poorly administered injection.

Black was the second man to be executed using Tennessee's pentobarbital-only lethal injection method. Autopsies are standard procedure after an execution. The first man to die under the new protocol, Oscar Franklin Smith <https://wpln.org/post/tennessee-executes-oscar-smith-ending-pause-on-lethal-injections/>, refused an autopsy on religious grounds.

This autopsy revealed that Byron Black developed pulmonary edema during the execution. That's a form of lung damage that can cause a painful drowning sensation. An NPR investigation published in 2020 <https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection> found that this damage is incredibly common. Researchers reviewed dozens of post-execution autopsy reports, and they found pulmonary edema mentioned in about 80% of them.

That can happen with any kind of lethal injection method — including the three-drug protocol that Tennessee previously used. But it's especially likely with pentobarbital. That medication is highly caustic — like Drain-o.

For weeks before he died, Black's attorneys argued that this form of execution violated his rights in several ways <https://wpln.org/post/a-heart-implant-could-make-tennessees-next-execution-painful-and-prolonged-prison-officials-argue-they-dont-have-to-disable-the-device/> — one being the risk of this lung damage.

The state's medical witness argued that it was unlikely Black would experience any pain during his execution, whether he developed pulmonary edema.

Dr. Joseph Antognini is an anesthesiologist who has served as a medical expert on behalf of several red state governments updating their death penalty methods. This year, he has performed his services in Louisiana [https://www.wwno.org/law/2025-03-17/the-doctor-defending-louisianas-controversial-execution-method](https://www.wwno.org/law/2025-03-17/the-doctor-defending-louisianas-controversial-execution-method/), where officials are implementing nitrogen gassing, and Tennessee, as it goes through a legal challenge to its new lethal injection protocol.

In Davidson County court records<<https://wpln.org/wp-content/uploads/sites/7/2025/09/Antognini-declaration-re-pentobarbital.pdf>>, he testified that such high dose of pentobarbital would cause Black and any other inmate to lose consciousness within 20 seconds of administration, and that they would be unlikely to experience any pain associated with the injection.

Under Tennessee's lethal injection protocol, the drugs are stored and administered in a room adjacent to the execution chamber. This is to obscure the identity of any prison workers involved in the process.

There is a hole in the wall between the two rooms, and the IV lines are routed through the hole. Then, workers place an IV in each arm. Media witnesses are in the viewing gallery as this happens, but curtains cover those windows until the IVs are established. Once the workers finish the job and leave the room, the curtains open, and the pentobarbital begins flowing into the prisoner being executed.

The curtains opened at 10:31 a.m., and Black showed signs of alertness until about 10:36<<https://www.youtube.com/watch?v=98EihpmH9v4>>. It was during this time he groaned, panted, and said, "It's hurting so bad."

Black's legal team told the Nashville Banner<<https://nashvillebanner.com/2025/09/10/byron-black-glen-casada-mnps/>> the autopsy failed to address other concerns.

For example, his attorneys noted it took several attempts to find a vein, and it was possible the caustic medication was shot into the muscle instead. But the report did not discuss whether there was any damage at the injection site.



## Catherine Sweeney

 (<https://twitter.com/CathJSweeney>) |  (<mailto:csweeney@wpln.org>)

Catherine Sweeney is WPLN's health reporter. Before joining the station, she covered health for Oklahoma's NPR member stations. That was her first job in public radio. Until then, she wrote about state and local government for newspapers in Oklahoma and Colorado. In her free time, she likes to cycle through hobbies, which include crochet, embroidery, baking, cooking and weightlifting.

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U.S. NEWS

## Attorney says electrocardiogram at Tennessee execution was active after inmate was pronounced dead



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BY [TRAVIS LOLLER](#)

Updated 1:43 PM EDT, October 24, 2025

NASHVILLE, Tenn. (AP) — An electrocardiogram monitoring the heart of a Tennessee inmate [executed by lethal injection](#) in August showed “sustained cardiac activity” nearly two minutes after [Byron Black](#) was pronounced dead, his attorney told a judge on Friday.

The comments by Kelley Henry came during a hearing over whether attorneys for Black and several current death row inmates will be allowed to depose the key people who carry out Tennessee executions. It is part of a [lawsuit in Chancery Court](#) in Nashville that challenges the state’s [latest lethal injection protocol](#), claiming it violates both federal and state constitutional bans on cruel and unusual punishment.

In the hearing, state Deputy Attorney General Cody Brandon argued that requiring members of the execution team to testify risks exposing their identities, even if their faces are hidden and their voices are disguised.

Instead, he proposed that Tennessee Department of Correction officials could testify. If the inmates’ attorneys designate the appropriate topics, the agency is required to provide witnesses with knowledge of those topics, he said.

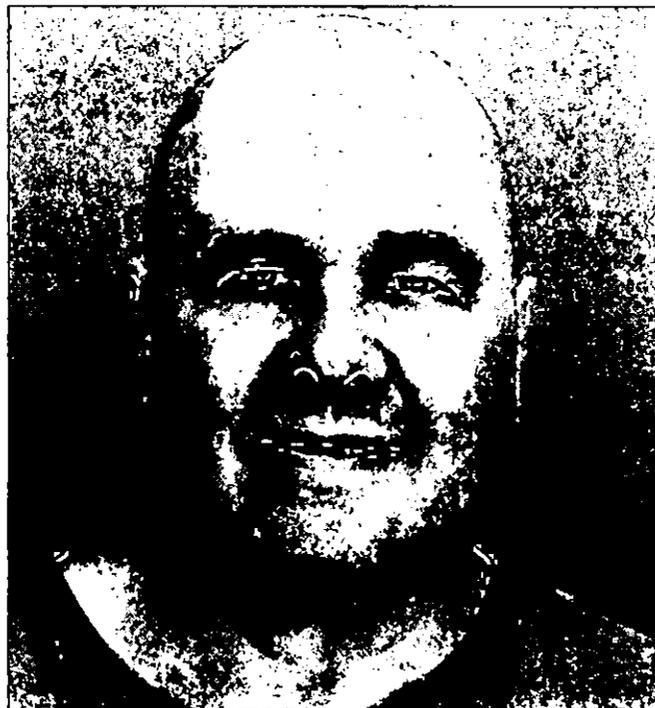
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Henry, who leads a group of federal public defenders representing indigent death row inmates in Middle Tennessee, said only the people who were actually there will be able to answer the question of what went wrong during Black's Aug. 5 execution.

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"At one point, the blanket was pulled down to expose the IV," she told Davidson County Chancery Court Judge Russell Perkins. "Why? Did the IV come out? Is that the reason that Mr. Black exclaimed, 'It's hurting so bad'? Is the EKG correct?"

Black was convicted of shooting and killing his girlfriend Angela Clay, 29, and her two daughters, Latoya Clay, 9, and Lakeisha Clay, 6, in 1988.

Henry also noted an issue during the May 22 execution of Oscar Smith. Attorneys don't know what Smith's cardiac activity looked like because there was no paper was loaded into the EKG machine.

"Since we filed this lawsuit, there have been two executions that have not gone to plan," she said. "They are batting a thousand with regard to not following the protocol."

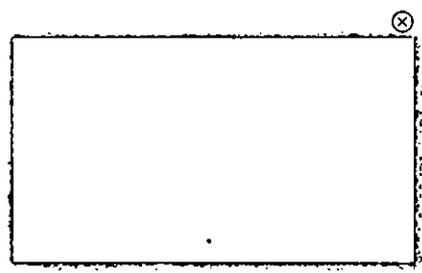
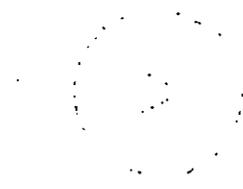
Brandon interjected that Tennessee's lethal injection protocol doesn't specifically say paper should be loaded into the EKG machine.

Perkins told the attorneys he will take their arguments under advisement and rule later.

Smith was convicted of fatally stabbing and shooting Judith Smith, 13-year-old Jason Burnett and 16-year-old Chad Burnett in 1989.

Smith had earlier come within minutes of execution before a surprise reprieve from Republican Gov. Bill Lee in April 2022. It later turned out the lethal drugs for that planned execution had not been properly tested. A yearlong investigation revealed numerous other problems with Tennessee executions that led to the new lethal injection protocol put in place last December.

The lawsuit filed in March claims the corrections department failed to make the changes to its protocol that were recommended by the governor and an independent investigator. Rather, the lawsuit claims, department officials wrote a new protocol with fewer specifics, making it hard to hold them accountable. A trial in the case is currently set for April.



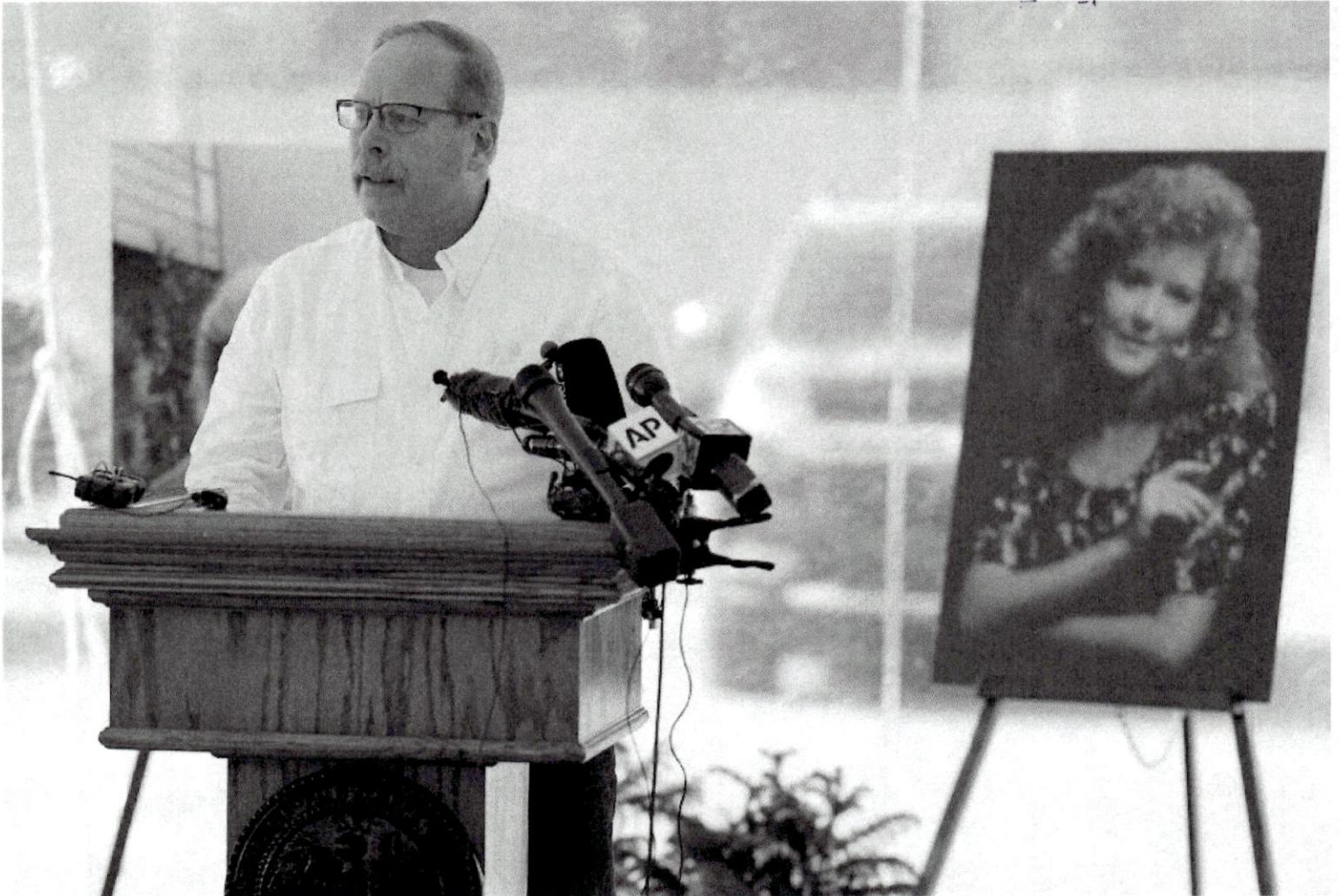
# **Exhibit 6**

# Tennessee executes Harold Wayne Nichols in third lethal injection of the year

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By Catherine Sweeney

December 11, 2025



Jeff Monroe, brother-in-law to murder victim Karen Pulley, speaks during a news conference outside Riverbend Maximum Security Institution after the execution of her killer Harold Wayne Nichols, Thursday, Dec. 11, 2025, in Nashville, Tenn. (AP Photo/George Walker IV)

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The Tennessee Department of Correction executed Harold Wayne Nichols Thursday morning, injecting him with a massive dose of the sedative pentobarbital.

Nichols was put to death for the rape and murder of a 20-year-old college student, Karen Pulley, in 1988. After he was arrested, he confessed to raping four other Chattanooga women before her.

The agency put Nichols to death about an hour after the Tennessee Supreme Court denied a stay. A lawsuit filed on his behalf, seeking records about the drugs used in this year's executions, is ongoing.

## Execution day

Media witnesses watch executions from a small viewing gallery. There's a curtain over a window that obscures the execution chamber until the IV team and other workers are finished setting up.

From the time the curtain opened, the process took about 14 minutes. Nichols and his spiritual adviser, J.R. Davis, went over several scriptures and recited the Lord's Prayer together. Each cried.

For one minute during the execution, Nichols sighed, groaned and breathed heavily. It's unclear whether this would have been because of the crying or another source of distress. Unlike the last man to undergo the lethal injection in Tennessee, Byron Black, Nichols didn't say he was in pain.

Pulley's brother-in-law, Jeff Monroe, represented the family in remarks after the execution. He said his wife, Pulley's sister, <https://wpln.org/post/lisette-monroe-lost-her-beloved-sister-to-murder-she-hopes-an-execution-will-bring-some-peace/> couldn't bear to attend.

At the time of the murder, the couple had just moved back to the U.S. after being stationed at an Air Force base in the Philippines for three years. After learning Pulley had been hospitalized, they attempted to go see her.

"Karen died before we could get to Chattanooga," he said.

He said nothing could atone for Pulley's brutal murder or her lost life, but that the execution was a start.

"We are relieved that the nightmare is over, and take comfort knowing that he never again will be able to hurt anyone else," he said. "Moving forward, our family is going to concentrate on the happy memories of Karen ... She was bubbly, happy, selfless."



(<https://wpln.org/post/tennessee-executes-harold-wayne-nichols-in-third-lethal-injection-of-the-year/death-penalty-tennessee-11/>)

*Spiritual advisor J.R. Davis, left, and attorney Deborah Drew, right, for Harold Wayne Nichols leave the administration building Riverbend Maximum Security Institution after the execution of Nichols, Thursday, Dec. 11, 2025, in Nashville, Tenn. (AP Photo/George Walker IV)*

Deborah Drew was among the attorneys for the Federal Defender Services of Eastern Tennessee who represented Nichols. She said he spent years confronting the pain he caused Pulley and the women he victimized before her, coming to terms with his own trauma and the pain he caused others.

“Our state sent the message that no one can rise beyond the crimes they committed decades earlier, and that redemption deserves no mercy,” she said. “Executing Wayne served but one goal: retribution.”

## Recent legal battles

The sentence was carried out about an hour after the state’s supreme court denied to delay the execution.

The request was part of a lawsuit that started in October.

The legal team for Nichols filed several formal records requests with TDOC this year, seeking a clearer picture of how the state’s new lethal injection protocol will be carried out. That included requests for the expiration dates on the doses of pentobarbital intended for him, as well as on the doses for the two men who were put to death earlier this year. These three are the first to die under the state’s latest method, using only pentobarbital instead of a combination of different drugs.

When TDOC refused to fulfill the requests, attorneys sued the agency in Knox County Chancery Court. The county sided with Nichols’ team twice<<https://wpln.org/post/judge-orders-release-of-tennessee-execution-records/>>, and the state appealed the decision to the court of appeals, which sided with the state.

In the middle of the filing flurry, the state submitted testimony that it could confirm the dose for Nichols was not expired. It didn’t mention the doses used in Smith’s or Black’s execution. Interest is high for Black’s dose because he groaned and said he was in pain as he died, and there still isn’t a solid explanation for that reaction.

Nichols’ team asked the state supreme court Thursday morning to delay the execution while it considers the case. Justices said they wouldn’t delay the execution, but they are still considering the records issue.

## Catherine Sweeney

 (<https://twitter.com/CathJSweeney>)  (<mailto:csweeney@wpln.org>)



Catherine Sweeney is WPLN's health reporter. Before joining the station, she covered health for Oklahoma's NPR member stations. That was her first job in public radio. Until then, she wrote about state and local government for newspapers in Oklahoma and Colorado. In her free time, she likes to cycle through hobbies, which include crochet, embroidery, baking, cooking and weightlifting.

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# **Exhibit 7**

RE: The proposed execution of Christa Gail Pike

Joel B. Zivot, M.D., FRCP(C), MA, JM

January 6, 2026

FILED

2026 JAN -8 PM 4: 33

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LN D.C. & M.

1. I am an associate professor and senior member of the Departments of Anesthesiology and Surgery, Emory University School of Medicine, in Atlanta, Georgia. I am the former Medical Director of the Cardiothoracic Intensive Care Unit at Emory University Hospital. I am also the former fellowship director for training in Critical Care Medicine. I hold board certification in Anesthesiology from the Royal College of Physicians and Surgeons of Canada and the American Board of Anesthesiology. I am board-certified in Critical Care Medicine from the American Board of Anesthesiology. I have an MA in bioethics and a Master of Law (JM).
2. I have been in continuous practice of anesthesiology and critical care medicine for the last 31 years, during which time I have personally performed or supervised the care of over 50,000 patients. I have been retained as a medical expert in death penalty cases. In this capacity, I have been to death row to examine prisoners in 8 states, including Tennessee, Georgia, Florida, Ohio, Arkansas, Missouri, Nevada, and Arizona. I have also consulted on death penalty cases in South Carolina, Texas, California, and executions carried out by the Federal Government. I have extensively studied autopsies on the aftermath of death by use of lethal injection and nitrogen gas. I have witnessed an execution in Georgia that used a chemical technique identical to that used in Tennessee.

3. I hold a medical license in Georgia and have held unrestricted medical licenses in Ohio, the District of Columbia, Michigan, and the Canadian provinces of Ontario and Manitoba. I also have a license to prescribe narcotics and other controlled substances from the US Drug Enforcement Administration (DEA).
4. I have been consulting with attorneys for Tennessee death row prisoner Christa Gail Pike, DOB: 03/10/1976, regarding Ms. Pike's medical conditions and the risks attendant to executing her by the Tennessee Department of Correction Lethal Injection Execution Protocol.
5. I became involved in Ms. Pike's case at the request of her attorneys. I agreed to do a review of her medical records so that I could provide a declaration that would allow the attorneys to understand the risks posed to Ms. Pike if executed according to Tennessee's lethal injection protocol.
6. My opinion is based on a review of three documents provided to me by the attorneys for Ms. Pike. The documents are entitled "Dec 2024-July 2025 TDOC Medical.pdf," "2025.01.08 TN LI – redacted.pdf," and "June 2023 – December 2024 TDOC Medical and Psych Rcd.pdf."
7. From the documents I reviewed, I observed that Ms. Christa Pike is a 49-year-old woman who suffers from several medical problems, including:
  - Allergic rhinitis
  - Bipolar disorder
  - Hyperlipidemia (HLD)
  - Migraine disorder (with N/V)
  - Post Traumatic Stress Disorder (PTSD)

- Thrombocytopenia/Thrombocytosis

8. Notable among this list is thrombocytosis. This is a blood condition characterized by a marked elevation in platelet levels. A platelet is a small, colorless, disk-shaped cell fragment from a large cell known as a megakaryocyte. Platelets play a critical role in the natural formation of blood clots. When the platelet count is below a specific value, the capacity to form clots is impaired. When blood fails to clot normally, the consequences can be catastrophic, including death by exsanguination. A very high platelet count can also, paradoxically, lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as von Willebrand Factor.

9. A review of the supplied medical records documents a visit with a hematologist on 03/21/2025. In this account, thrombocytosis was first diagnosed in 2017 with a platelet count of approximately 1 million. This is a significantly elevated amount – more than twice the upper limit of normal. The letter further states that thrombocytosis had been present for several years but had not been addressed. Treatment for this condition consisted of daily aspirin to reduce the risk of clotting in the setting of an elevated platelet count, and follow-up. In Ms. Pike’s case, thrombocytosis is likely due to a myeloproliferative disorder, which is a rare form of blood cancer. Her platelet count continues to fluctuate over time.

10. Lethal injection execution, as utilized by the TDOC, will very commonly produce bloody frothy fluid within the lungs. Such bleeding occurs in people with a normal clotting mechanism. In the case of Ms. Pike, her predisposition to possible abnormal clotting

would very likely produce an even more severe pattern of bloody froth in the lungs. This is death by drowning in one's own blood.

11. TDOC is bound to provide all the necessary medical care for Ms. Pike. Indeed, it was recommended to Ms. Pike that she undergo a cancer screening evaluation via a colonoscopy. Such actions suggest that TDOC considers it very likely that Ms. Pike will be alive for many years and should expect a normal life expectancy. TDOC recognizes that it cannot allow Ms. Pike to fall ill by withholding medical care at any time during her incarceration. Ms. Pike is always entitled to medical care, including the period of time during any attempt by TDOC to execute her.
12. If a prisoner survives an attempt at execution but suffers sub-lethal injuries that, without treatment, will or may lead to death or disability, that prisoner must receive medical care, and the warden is under a duty to provide it. No prisoner facing execution can be designated as DNR (do not resuscitate), as a refusal to receive medical treatment to sustain life is a demand subject to continuous reconsideration. Once a person designated DNR loses agency, a proxy must be in place to make medical decisions. A prisoner has no liberty, and the warden is the *de facto* proxy. The warden is not an agent on the prisoners' behalf.
13. Apoptosis, or programmed cell death, may occur after cellular exposure to noxious stimuli. Injury, once initiated, may tip towards recovery or apoptosis, depending on its nature. Specific noxious injuries are fundamentally time-based. That is, the cellular response between recovery and apoptosis will favor one or the other, based on the duration of the noxious stimuli alone. In the brain, a sudden and complete arrest of

circulation will deplete all brain oxygen within 10-15 seconds and brain glucose and adenosine triphosphate (ATP) within 5 minutes. ATP is the body's fuel and is critical for energy transport within all cells. After five minutes of circulatory arrest, brain cell apoptosis occurs and is not reversible under any circumstances.

14. If the execution fails, the prisoner must be substantially free of risk of disabling injuries due to the failed execution, or medical intervention must be immediately available to reduce that risk. If a prisoner survives an execution attempt, the duty requiring the delivery of necessary health care is revived, if it was ever set aside. To guard against the significant risk of execution failure and subsequent brain injury, TDOC must have in place the capacity to resuscitate a prisoner. The ability to immediately provide resuscitative measures to a prisoner when an execution method fails also applies to other TDOC execution methods, including the electric chair.
15. A resuscitation team should be led by a physician, not in the employ of TDOC, and empowered absolutely to call off an execution anticipated to fail. This physician must have unrestricted access to the technique of execution to plan all the necessary countermeasures for the best chance at reviving the prisoner. Execution is in no way a medical act but aspires to impersonate one. This impersonation is no accident. It is designed to present itself as having received endorsement from the legitimate medical community.
16. On the other hand, rescue resuscitation is a medical act. The performance of quality state-of-the-art resuscitation will need the tools of the medical trade, access to the prisoner on demand, and once declared, the prisoner is immediately transformed into a patient.

Skilled, trained providers must staff this resuscitation effort. An ICU ambulance must be on hand to deliver the full measure of necessary resuscitative measures.

17. The TDOC lethal injection protocol describes a two-step injection technique. In each attempt, 2500 mg of pentobarbital will be injected. We understand that if the first 2500 mg of pentobarbital fails to cause death, a second 2500 mg of pentobarbital will be injected. What is absent in this reasoning is any attempt to understand the reason for failure. Indeed, simply repeating the precise technique a second time may logically produce the same outcome: no death. TDOC has no procedure to consider why the first injection failed to cause death. The protocol has no mechanism to evaluate itself as a technical act. Without a particular understanding of why failure occurred, no new attempt can reasonably take place. As a physician, I might encounter procedural failure. This failure provides the basis for my following action, which must use a different technique, not the same one that failed.

18. The use of pentobarbital as the single chemical agent requires commentary. The stability of compounded Pentobarbital depends on the preparation and storage conditions. Small microprecipitates may be present and not easily visualized by casual observation of the compounded solution. Pentobarbital must be fully suspended in solution to be utilized. If the preparation or storage of the compounded solution has resulted in drug degradation, the effectiveness is no longer guaranteed.

19. Pentobarbital is a chemical within a class of chemicals known as barbiturates. Chemical agents in this class work primarily by causing sedation but provide no pain relief at any dose. Barbiturates are never used for pain relief. Death by pentobarbital lethal injection is

highly noxious and extremely painful. The pain of dying by this method of execution remains unaddressed by TDOC. Any claim that the pain is inconsequential because of brevity might consider the experience of placing a hand in a burning flame and counting 60 seconds. Humans have an extraordinary ability to detect pain, and this detection occurs in a fraction of a second. Death by pentobarbital lethal injection may be akin to being burned alive from the inside for as long as 10 to 15 minutes.

20. Ms. Pike is plagued by serious mental health challenges, including bipolar disorder and PTSD (post-traumatic stress disorder). The threat of execution will not doubt be a profound trigger in the mental state of Ms. Pike, particularly as the TDOC lethal injection protocol will likely result in severe pain and suffering. It is conceivable that in anticipation of an execution, Ms. Pike's mental health would deteriorate to the point of a loss of agency and be unable to undergo an execution on that basis. Treating the mental health crisis to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place.

21. Upon review of TDOC's redacted lethal injection protocol, many false claims are made regarding the qualifications of the execution team, including comments that members must be licensed. A medical license is a license to practice medicine, and participation in execution is a violation of the practice of medicine and a gross act of moral turpitude. No medical board would sanction such participation by medical license holders and would very likely seek to revoke that license should it be held up for this purpose. A nursing licensing authority would similarly discipline a nurse if they participated in a lethal injection execution. Ms. Pike is aware of this, and it further degrades her mental health.

22. Based on my review of Ms. Pike's medical records, her known platelet disorder leading to abnormal bleeding risks and the TDOC lethal injection protocol, it is my opinion that a substantial risk exists that, if TDOC attempts to execute Ms. Pike, the result will be death associated with emotional terror and trauma in anticipation of this death. The circumstance of this lethal injection event will be an even more exaggerated, cruel death caused by drowning in one's own blood.
23. I hold the opinions in this affidavit to a reasonable degree of medical certainty. Should additional information become available later, I reserve the opportunity to update or add to the opinions stated in this letter.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a loop.

Joel B. Zivot, MD, FRCP(C), MA, JM

# **Exhibit 8**

CHAPTER: 700

Operational Security

DEPARTMENT ORDER:

710 – Execution Procedures

OFFICE OF PRIMARY  
RESPONSIBILITY:

OGC  
OPS  
OIG  
M&C  
EPCR  
VS  
HS

Effective Date:

May 20, 2025

Amendment:

N/A

Supersedes:

DO 710 (10/23/24)

Scheduled Review Date:

N/A

ACCESS

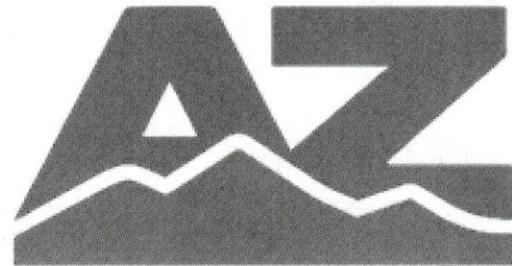
Contains Restricted Section(s)

FILED

2026 JAN -8 PM 4: 33

CLERK & MASTER  
DAVIDSON CO. CHANCERY CT

Department Order  
Manual



DEPARTMENT OF  
**CORRECTIONS,**  
REHABILITATION & REENTRY

A handwritten signature in black ink, appearing to read 'Ryan Thornell', is written over a horizontal line.

Ryan Thornell, Director

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## **PURPOSE**

This Department Order (DO) establishes procedures for planning and carrying out the execution of a person convicted of a capital offense and sentenced to death, in accordance with state law. These procedures shall be followed as written, except that the Director of the Arizona Department of Corrections, Rehabilitation and Reentry (Director) may make limited deviations from or adjustments to these procedures when required to address certain unexpected or otherwise unforeseen contingencies, subject to the limitations on the Director's discretion as set forth herein. Except as expressly permitted herein, the Director shall not have any authority to deviate from or make adjustments to any material aspects of the execution process, including, but not limited to, the execution chemicals or dosages, consciousness checks, the access of the media and the inmate's counsel to the execution, and the timeframes established by this DO.

## **RESPONSIBILITY**

The Department ensures the execution of a person sentenced to death under State law by a court of competent authority and jurisdiction is carried out in keeping with statute, case law, and professional practices.

The Department shall make every effort in the planning and preparation of an execution to ensure the execution process:

- Faithfully adheres to constitutional mandates against cruel and unusual punishment.
- Minimizes its impact on the safety, security, and operational integrity of the prison and the community in which it occurs.
- Accommodates the public's right to obtain certain information concerning the execution.
- Reasonably addresses the privacy interests of persons as provided by law.
- Provides contingency planning to identify and address unforeseen problems.
- Allows for stays of execution, commutations, and other exigencies until the time that the sentence is imposed.
- Provides opportunity for citizens to exercise their First Amendment rights to demonstrate for or against capital punishment in a lawful manner.
- Ensures there is an appropriate response to unlawful civil disobedience, trespass, and other violations of the law by any person attempting to interfere with the execution or the operation of the prison.

The Department shall detain, seek the arrest and encourage prosecution of persons whose conduct includes:

- Violating prohibitions against filming, taping, broadcasting or otherwise electronically documenting the execution of the inmate.
- Trespassing and/or otherwise entering upon Department property without authorization.
- Participating in unlawful demonstrations or unlawfully attempting to disrupt, prevent, and otherwise interfere with the execution.
- Unlawfully threatening, intimidating, and otherwise attempting to influence authorized persons involved in the execution process.
- These prohibitions apply to the inmate population as well as Department personnel and members of the general public engaging or attempting to engage in disruptive and other prohibited behaviors.

Participating staff shall adhere to the Department's Code of Ethics and Guided Principles, evidencing:

- Appropriate levels of professionalism, restraint, and courtesy when interacting with witnesses, demonstrators, attorneys, media, state and local law enforcement, and any other member of the public directly and indirectly involved with the imposition of the sentence of death.
- All assigned duties are performed proficiently and professionally.
- Their ability to exercise the option to withdraw from the process by the prescribed means at any time.
- Conduct that appropriately reflects the solemnity of the activities in which they elect to engage and the duties they choose to perform.
- Reserving public comment on any and all facets of the execution except as expressly provided in DO #201, Legal Services - Records Release.
- Any Department employee who learns of identifying information regarding any person who participates in or performs any function of an execution must keep that information confidential.

#### **IMPORTANT GUIDELINES REGARDING CONFIDENTIALITY AND VOLUNTARINESS OF PARTICIPATION IN AN EXECUTION:**

- The anonymity of any person, as defined in A.R.S. §§ 1-215(29) and 13-105(30), who participates in or performs any ancillary function(s) in the execution, including the source of the execution chemicals, and any information contained in records that would identify those persons are, as required by statute, to remain confidential and are not subject to disclosure. A.R.S. § 13-757(C).
- All team members serve on a strictly voluntary basis. At any point before, during or after an execution any team member may decline to participate or participate further without additional notice and explanation or repercussion.
- The Administrative Team Leader shall ensure all team members understand and comply with the provisions contained herein.
- Any of the duties that are to be performed under this policy by a specifically identified Department position may be substituted out and performed by a designee named by the Director.

### **PROCEDURES**

#### **1.0 DIRECTOR'S OFFICE RESPONSIBILITIES UPON NOTICE THAT THE STATE HAS FILED A MOTION FOR WARRANT OF EXECUTION**

1.1 Upon notice from the Attorney General's Office that it has filed a Motion for Warrant of Execution in the Arizona Supreme Court:

1.1.1 General Counsel shall:

1.1.1.1 Notify the Director, Administrative Team Leader, the Warden of the prison complex where the inmate is housed, and the Media Relations Office.

1.1.1.2 Notify the Victim Services Administrator, who shall contact the victim(s) and inform them that the State is seeking a Warrant of Execution.

1.1.2 The Director shall notify the inmate and the inmate's counsel in writing of the drug/lethal gas protocol that will be used in the event a Warrant of Execution is issued and the method of execution.

#### **2.0 COMPLEX AND DIRECTOR'S OFFICE RESPONSIBILITIES UPON RECEIPT OF WARRANT OF EXECUTION**

2.1 Upon receipt of the Warrant of Execution:

- 2.1.1 General Counsel shall:
  - 2.1.1.1 Notify the Director, Administrative Team Leader, the Warden of the prison complex where the inmate is housed, and the Media Relations Office.
  - 2.1.1.2 Forward copies of the Warrant of Execution to the Warden of ASPC-Eyman and the Warden the prison complex where the inmate is housed.
  - 2.1.1.3 Notify the Victim Services Administrator, who shall contact the victim(s) and inform them of the court’s issuance of the Warrant of Execution.
- 2.1.2 The Director shall:
  - 2.1.2.1 Select the time of execution and provide notice to the Arizona Supreme Court and the parties at least 20 calendar days prior to the execution date. (Arizona Rules of Criminal Procedure, Rule 31.23(c)(3))
  - 2.1.2.2 Notify the inmate that if the offense was committed prior to November 23, 1992, the inmate shall choose in writing using the Method of Execution, Form 710-1, either lethal injection or lethal gas at least 21 days prior to the execution. If the inmate fails to choose either lethal injection or lethal gas, the penalty of death shall be inflicted by lethal injection (A.R.S. § 13-757(B)).
  - 2.1.2.3 Have the authority to change the timeframes established in this DO in order to address certain unexpected or otherwise unforeseen contingencies only with regard to minor or routine contingencies not central to the execution process.
- 2.1.3 The Warden of the prison complex where the inmate is housed shall provide a copy of this DO and all forms to the inmate and shall:
  - 2.1.3.1 Direct the inmate to submit the Inmate Witness Information, Form 710-2, to the Warden no later than 14 days prior to the scheduled execution date.
    - 2.1.3.1.1 Inform the inmate that two clergy/spiritual advisors and five other persons may be invited to be present at the execution. The inmate may designate one of the clergy/spiritual advisors to accompany the inmate into the lethal injection execution chamber for audible prayer and faith-based touch, consistent with the United States Supreme Court’s Opinion in *Ramirez v. Collier* (March 24, 2022).
      - 2.1.3.1.1.1 The Department reserves the right to enforce as necessary any or all reasonable restrictions on the audible prayer and faith-based touch as set forth in the United States Supreme Court’s Opinion.
    - 2.1.3.1.2 Notify the inmate that minors are prohibited from witnessing the execution pursuant to A.R.S. § 13-758.

- 2.1.3.1.3 Notify the inmate that requests for Department or contract staff to attend the execution shall be denied.
- 2.1.3.1.4 Notify the inmate that requests for other inmates to attend the execution shall be denied.
- 2.1.3.2 Direct the inmate to review and update as necessary the Notification in Case of Accident, Serious Illness or Death and Disposition of Property, Form 711-1. The Warden shall direct the inmate to provide any changes no later than 14 days prior to the execution. If the inmate provides no instruction, the property and accounts shall be disposed per DO #711, Notification of Inmate Hospitalization or Death.
- 2.1.3.3 Advise the inmate that his/her body shall not be used for organ donation.
- 2.1.3.4 Summarize the options available with the inmate for release and disposition of their body after the autopsy is performed. The Warden shall direct the inmate to review the previously completed Disposition of Remains, Form 710-3, and update as necessary no later than 14 days prior to the execution. If the inmate provides no information or the information is insufficient or incorrect the deceased shall be disposed per DO #711, Notification of Inmate Hospitalization or Death.
  - 2.1.3.4.1 The Inspector General shall provide a copy of the Disposition of Remains, Form 710-3, to the Office of the Medical Examiner prior to the execution.
- 2.1.3.5 Advise the inmate they may request a last meal by completing the Last Meal Request, Form 710-5, and returning it no later than 14 days prior to the execution. Reasonable effort shall be made to accommodate the request.
- 2.1.3.6 Ensure that copies of all forms filled out by the inmate are provided to the Deputy Warden at the Browning Unit or the Lumley Unit at or before the time the inmate is transferred to Death Row at Browning Unit or Lumley Unit.

### **3.0 EXECUTION TEAM MEMBERS**

- 3.1 The Administrative Team consists of the Administrative Team Leader and two additional Department Administrators appointed by the Director.
  - 3.1.1 The Administrative Team will consult with the General Counsel as needed for legal advice and the Healthcare Services Division designee in carrying out their responsibilities.
  - 3.1.2 The Administrative Team is responsible for:
    - 3.1.2.1 Providing, planning, directing, and implementing all pre-execution and post-execution activities.

- 3.1.2.2 Coordinating all processes associated with specialty team personnel selection (excluding the IV/Medical Team), equipment, supply acquisition, training, rehearsal, and performance.
  - 3.1.2.3 Conducting preparatory steps in order to ensure that the execution process is conducted in accordance with this DO.
  - 3.1.2.4 Ensuring that an annual training schedule is established and scheduling dates for periodic on-site rehearsal sessions are established.
  - 3.1.2.5 Ensuring that the Emergency Operations Center (EOC) creates, oversees, and distributes all training and day-of check-in lists.
- 3.2 The Administrative Team shall:
- 3.2.1 Establish a training schedule and identify dates for periodic on-site practice by the Housing Unit 9 Section Teams, to include 10 training scenarios within the 12 months preceding the scheduled execution.
  - 3.2.2 Conduct a minimum of two training sessions with multiple scenarios two days prior to the scheduled execution. The IV/Medical Team members shall participate in quarterly training sessions and at least one training session with multiple scenarios within one day prior to the scheduled execution.
    - 3.2.2.1 All training sessions shall be documented and be included as part of a permanent record created by the Administrative Team to be submitted to the Department's General Counsel for archive, post execution.
  - 3.2.3 Ensure periodic testing of all of the equipment in Housing Unit 9 occurs, affirming electrical, plumbing, heating and air conditioning units are in working order and the gas chamber is maintained.
- 3.3 The Administrative Team provides for the planning and overall direction of all pre-execution, execution and post-execution activities (excluding the IV/Medical Team). The Administrative Team activates the following teams and oversees their activities, specifically:
- 3.3.1 Others as necessary
  - 3.3.2 Team members, including the team leader, are selected by the Administrative Team with the documented approval of the Director.
  - 3.3.3 Housing Unit 9 Section
    - 3.3.3.1 Consists of a section leader, recorder, and one team:
      - 3.3.3.1.1 Restraint Team
    - 3.3.3.2 Team leaders are selected by the Administrative Team with the documented approval of the Director.
    - 3.3.3.3 The section leader is a Warden selected by the Administrative Team Leader with the documented approval of the Director.

3.3.3.4 The primary function of the section leader is the overall coordination of activities of the Restraint Team to ensure compliance with conditions of confinement and application of approved procedures.

3.3.4 Restraint Team

3.3.4.1 Consists of a minimum of five team members, including one team leader.

3.3.4.2 Restraint Team members and the team leader are selected by the Administrative Team with the documented approval of the Director.

3.3.4.3 The primary function of the Restraint Team is to provide continuous observation of the inmate on the day of the execution and apply appropriate restraint procedures and inmate management prior to, during and after the execution.

3.3.5 Maintenance Response Team (MRT)

3.3.5.1 Consists of three team members, including the team leader, and reports to the Administrative Team.

3.3.5.2 Team members are selected by the Administrative Team with the documented approval of the Director.

3.3.5.3 The primary function of MRT is to test all Housing Unit 9 equipment utilized to impose the sentence of death and to ensure electrical, plumbing, heating and air conditioning units are in working order.

3.3.6 Employee Support Unit (ESU)

3.3.6.1 Consists of four team members, including the team leader, an Occupational Health Nurse (OHN), and reports to the Administrative Team.

3.3.6.2 The leader is the ESU Statewide Coordinator or designee.

3.3.6.3 Team members are ESU responders and selected by the ESU Statewide Coordinator with the documented approval of the Director.

3.3.6.4 The primary function of ESU is to educate staff regarding possible psychological responses and effective coping mechanisms to affected staff at all levels in the Department prior to, during and after the execution. ESU shall provide ongoing follow-up contact to staff.

3.3.7 Traffic Control Team

3.3.7.1 Consists of up to 18 team members and a team leader, and reports to the EOC.

3.3.7.2 Team members and the team leader are selected, in consultation with the Administrative Team, by the Office of Inspector General with the documented approval of the Director.

3.3.7.3 The primary function is to confer with state and local law enforcement agencies, establish check points and parameters for traffic control and formulate inter-agency emergency response strategies. The team also coordinates the ingress/egress for Department and contract staff and other persons whose attendance is necessary at ASPC-Eyman. The Team's focus is the period of time starting 24 hours prior to the execution and concluding when normal activities resume after the execution.

### 3.3.8 Witness Escort Team

3.3.8.1 Consists of up to 14 team members and reports to the Administrative Team.

3.3.8.2 Team members are selected by the Administrative Team with the documented approval of the Director.

3.3.8.3 The primary function is to coordinate the movement of all pre-approved witnesses on and off prison grounds and within its perimeter. Escort team members always remain with witnesses within the established perimeter.

### 3.3.9 Victim Services Team

3.3.9.1 Consists of two team members and reports to the Administrative Team.

3.3.9.2 The team leader is the Victim Services Administrator.

3.3.9.3 Team members are selected by the Victim Services Administrator with the documented approval of the Director.

3.3.9.4 The primary function is to ensure victims of the crime that resulted in the imposition of death are informed of the execution date and their opportunity to witness the execution. The team explains the execution process. If the victim is interested in attending, the team submits the victim's name(s) for consideration.

3.3.9.5 Day of the Execution – The team leader meets with the victim(s) in a predetermined staging area and accompanies them throughout the process, including a briefing by the Director or the Director's designee. The team provides support and advocacy as appropriate.

3.3.9.6 If the victim(s) is interested in speaking with the media after the execution, the victim(s) is escorted to the media room for brief media availability.

3.3.9.7 Post-Execution - The team leader ensures the victim(s) receives follow-up phone calls and support.

### 3.3.10 Population Assessment

3.3.10.1 The affected Warden where the inmate is housed:

3.3.10.1.1 Is responsible for the coordination of monitoring and evaluation of inmate activity, to be reported to the Administration Team.

3.3.10.1.2 Continuously monitors and assesses the inmate population for any activity related to the execution or its impact on the prison's operation.

### 3.4 Intravenous/Medical Team Members (IV/Medical Team)

3.4.1 The IV/Medical Team will consist of any two or more of the following: physician(s), physician assistant(s), nurse(s), emergency medical technician(s) (EMTs), paramedic(s), military corpsman or other certified or licensed personnel including those trained in the United States Military. All team members shall be currently certified or licensed within the United States to place IV lines.

3.4.1.1 One member of the IV/Medical Team will serve as the IV/Medical Team Recorder.

3.4.2 The IV/Medical Team members shall be approved by the Director. Selection of any team member shall include a review of the proposed team member's qualifications, training, experience, and/or any professional license(s) and certification(s) they may hold. Licensing and criminal history reviews shall be conducted by the Inspector General's Office prior to assigning or retaining any IV/Medical Team member and upon the issuance of a Warrant of Execution.

3.4.3 The Director shall designate the IV/Medical Team Leader. The Director or designee shall ensure all team members thoroughly understand all provisions contained herein as written and by practice.

3.4.4 The IV/Medical Team shall be responsible for inserting peripheral IV catheters as determined by the Director acting upon the recommendation of the IV/Medical Team Leader. The IV/Medical Team Leader shall ensure all lines are functioning properly throughout the procedure, perform the mixing of the chemicals, preparing the syringes, and monitoring the inmate (including the level of consciousness and establishing the time of death). The IV/Medical Team shall administer the chemicals.

3.4.5 IV/Medical Team members shall be required to participate in quarterly training sessions, in addition to training sessions scheduled one day prior to the actual execution. IV/Medical Team members may be required to participate in additional training sessions.

3.4.6 Documentation of IV/Medical Team members' qualifications, including training of the team members, shall be maintained by the Director, or designee.

### 3.5 Media Relations Office

3.5.1 The Media Relations Office shall coordinate the release of information to news media outlets. All Department and contract staff are expressly prohibited from providing information not readily available in the public domain.

3.5.2 The Media Relations Office shall be responsible for:

3.5.2.1 Providing all press releases, media briefings, and any news or noteworthy information related to the execution to the media.

- 3.5.2.2 Organizing and directing a media room on the day of execution wherein members of the media may gather and have access to internet on the day of execution.
- 3.5.2.3 Organizing and directing a media briefing, to be held in the identified media room.
- 3.5.2.4 Providing all necessary paperwork to members of the media chosen as Media Witnesses.
- 3.5.2.5 Providing all necessary paperwork to members of the media chosen as a member of the Media Corps.

### 3.6 Designation of ADCRR Staff and Others Selected to Assist with the Execution

- 3.6.1 The Administrative Team shall review the current teams' rosters and recommend retention or replacement of staff and alternates.
- 3.6.2 The Administrative Team shall forward final recommendations to the Director for approval.
- 3.6.3 In the selection and retention of section leaders and Housing Unit 9 Team members, the Administrative Team shall consider:
  - 3.6.3.1 Professionalism and employee conduct. No employee who was suspended or demoted, including voluntary demotion, in the past 12 months shall be considered. Any staff currently under investigation is also ineligible.
  - 3.6.3.2 Special consideration may be given to staff with pertinent specialized training and qualifications.
  - 3.6.3.3 Staff with less than two years employment with the Department shall not be considered.
  - 3.6.3.4 No staff serving on any team shall be related to the inmate by blood or marriage or have any other legal relationship with the inmate, their family or the crime victim(s).
- 3.6.4 Staff participation in the execution process is strictly voluntary. No Department employee is required to attend or participate in an execution. Any staff volunteers may withdraw from performing their assigned duties specific to the execution at any time by advising their team leader, advising a team member or advising their immediate chain of command. All staff participating in the execution shall be required to sign a Notice of Execution Involvement, Form 710-8.

## 4.0 COMMUTATION HEARING PROCEEDINGS

- 4.1 The Arizona Board of Executive Clemency (ABOEC) shall advise the Department of its plans to convene a Commutation Hearing and its date and time. Upon receipt of the notice, the Warden of the prison complex where the inmate is housed shall arrange for a location in which the Commutation Hearing will be held.
  - 4.1.1 If the ABOEC Commutation Hearing is held at the prison, the Department shall:

- 4.1.1.1 Require those in attendance to adhere to dress code as outlined in DO #911, Inmate Visitation.
- 4.1.1.2 Comply with the open meeting laws as it applies to ABOEC hearings pursuant to A.R.S. § 38-431.08.

## **5.0 DESIGNATION OF WITNESSES BY DIRECTOR**

5.1 The Director or designee shall be present during the execution.

5.1.1 The Director shall invite:

5.1.1.1 The Arizona Attorney General. A.R.S. § 13-758.

5.1.1.2 Twelve or more reputable citizens, including up to five members of the media.

5.1.1.3 Up to five Media Witnesses selected as representatives, from print/digital, television/streaming, radio/digital audio, and the local market where the crime occurred. These Media Witnesses shall agree to speak to the members of the Media Corps as part of the media briefing.

5.1.1.3.1 All Media Witnesses shall be held to the same standard as all other witnesses.

5.1.1.4 Law Enforcement and prosecutors from the jurisdiction where the crime occurred.

5.1.1.5 Any crime victims and survivors of the crime for which the sentence of death will be imposed, once the Victim Services Team identifies those persons and provides to the Director a list of victim witnesses within 14 days prior to the scheduled execution.

5.1.1.6 In the event that the inmate wishes to designate one or more of their attorneys or other members of their legal team (not to exceed a cumulative three persons) to witness the execution, then the inmate shall identify these witnesses 21 days prior to the execution, and these witnesses shall sign and timely submit a Witness Agreement, Form 710-6, whereupon the Director shall invite these legal witnesses to attend the execution in accordance with Section 11.0, subsection 11.2.1.1.

5.1.2 Minors shall not be permitted to witness an execution. A.R.S. § 13-758.

5.1.3 All witnesses are subject to a background check. Selection to participate is contingent upon security clearance and Witness Agreement to adhere to the provisions stipulated in the Witness Agreement and Media Witness Agreement, Forms 710-6 and 710-7. The Director shall retain full discretion as to the selection of and any changes in the witnesses selected for each scheduled execution.

## **6.0 STATE AND LOCAL LAW ENFORCEMENT BRIEFING; SITE CHECKS**

6.1 The Office of the Inspector General shall ensure state and local law enforcement is periodically briefed and adequately prepared for the execution.

- 6.2 All of the equipment necessary to the administration of the execution shall be available on site and in good working order including:
  - 6.2.1 Transportation vehicles
  - 6.2.2 Communication devices with inter-operability capability and restricted frequencies
  - 6.2.3 Climate control
  - 6.2.4 Tool control
  - 6.2.5 Safety equipment
  - 6.2.6 Audio/visual equipment
  - 6.2.7 Utility infrastructure
  - 6.2.8 Key control/locking devices
  - 6.2.9 Medical emergency response capability
- 6.3 The Administrative Team shall take all necessary steps to timely rectify deficiencies.

#### **7.0 THIRTY-FIVE DAYS PRIOR TO THE DAY OF EXECUTION – COMPLEX**

- 7.1 The Warden of the prison complex where the inmate is housed shall confirm in writing the following steps were completed:
  - 7.1.1 Read the Warrant to the inmate and provide a copy of any forms the inmate will need to fill out.
  - 7.1.2 Outline for the inmate how conditions of confinement will be modified over the next 35 days and briefly describe the relevant aspects of the execution process.
  - 7.1.3 Offer the inmate the opportunity to contact their Attorney of Record by phone and to speak with a facility chaplain.
  - 7.1.4 Obtain the inmate's current height and weight and provide that information to the Administrative Team.
    - 7.1.4.1 The Administrative Team shall provide the current height and weight to the Director or designee.

#### **8.0 THIRTY-FIVE DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE**

- 8.1 The Administrative Team:
  - 8.1.1 Identifies and assigns team leaders and members, with documented approval by the Director, and upon approval shall activate the teams.
  - 8.1.2 Confirms preventive maintenance in Housing Unit 9 occurs and that an equipment inventory is completed, and appropriate and timely action is taken.
  - 8.1.3 Activates the training schedule ensuring staff participating in the execution receives adequate training, written instruction and practice, all of which is documented.

**8.2 The Healthcare Services Division designee:**

- 8.2.1 Directs ADCRR’s Healthcare Services staff or Contracted Healthcare Provider (CHP) to conduct a medical records file review to identify any prescribed medication(s) and dosages the inmate is currently or was recently taking. Healthcare Services staff or ADCRR’s CHP shall modify prescribed medications as may be necessary.
- 8.2.2 Directs Healthcare Services staff or CHP to dispense all inmate medications in unit doses and when available in liquid form. No medication including over-the-counter medications shall be provided or maintained by the inmate as Keep-on-Person.
- 8.2.3 Ensures Healthcare Services staff or CHP continuously monitors for significant changes in the inmate’s medical or mental health and reports findings immediately to the Department’s Director and General Counsel.

**8.3 The Media Relations Office:**

- 8.3.1 Issues a press release announcing the date of the execution.
- 8.3.2 Facilitates up to one non-contact interview with the inmate by phone, per day, with media from the day the Warrant is issued until the day before the sentence of death is imposed excluding weekends and state and federal holidays. No interviews will be permitted within 24 hours of the actual execution. The inmate and Attorney of Record may select among these requests that are submitted to the Media Relations Office and recommend the order in which they occur. The inmate may refuse any or all media requests for interviews.

**8.4 The Office of Victim Services:**

- 8.4.1 Identifies and advises victims of the crime for which the inmate has been sentenced to death of the issuance of the Warrant of Execution and the scheduled date and time of the execution.

**9.0 TWENTY-EIGHT DAYS PRIOR TO THE DAY OF EXECUTION - CENTRAL OFFICE**

**9.1 The Media Relations Office:**

- 9.1.1 Media representatives requesting to witness an execution must submit written requests to the Media Relations Office no later than 28 days prior to the execution. Each request must include their full name, name of their news organization, phone number and email. Only those news organizations that have submitted written requests within the stated time frame shall be considered.

**10.0 TWENTY-ONE DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE**

**10.1 The Media Relations Office:**

- 10.1.1 Forwards selected Media Witness requests to the Inspector General for background investigation. The Inspector General shall advise the Director of any issues arising from such investigations.

- 10.1.2 Sends Media Witness Agreement forms (Witness Agreement, Form 710-6, and as applicable, Media Witness Agreement, Form 710-7) to selected Media Witnesses who have passed the background investigation and establishes a deadline for the return of all such forms.
- 10.1.3 All selected Media Witnesses shall sign and timely submit a Witness Agreement, Form 710-6, prior to being cleared and added to the witness list.

## **11.0 FOURTEEN DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE**

- 11.1 The Inspector General or designee:
  - 11.1.1 Finalizes arrangements with the Medical Examiner Office for the disposition of the body, security for the Medical Examiner's vehicle and the custodial transfer of the body.
  - 11.1.2 Obtain a body bag and tag from the Medical Examiner's Office.
- 11.2 The Director's Office:
  - 11.2.1 Finalizes a list of all witnesses including legal witnesses, victim witnesses, inmate witnesses, Media Witnesses, and any other witnesses through coordination with the Office of Victim Services and Media Relations Office, for the Director's review and documented approval.
    - 11.2.1.1 Upon documented approval the Director or designee shall prepare a written invitation to each chosen witness. (See Attachment A)
- 11.3 The Media Relations Office:
  - 11.3.1 Issues a press release announcing the date and time of the execution.

## **12.0 SEVEN DAYS PRIOR TO THE DAY OF EXECUTION – COMPLEX**

- 12.1 Transfer the inmate to the single-person cell on Death Row at Browning Unit or the Lumley Unit that has been retrofitted expressly for the purpose of holding the inmate.
  - 12.1.1 Before transferring the inmate into the cell, the inmate shall be strip searched, screened on the body scanner and then issued a new set of clothes and shoes to wear.
  - 12.1.2 The single-person cell shall be thoroughly searched prior to placing the inmate in the cell.
- 12.2 Place the inmate on 24-hour Continuous Observation and post staff to the inmate's cell on an on-going basis to maintain visual contact with the inmate until such time as the inmate is transferred to Housing Unit 9 at ASPC-Eyman.
- 12.3 Establish an Observation Record to chronicle staff's observations of the inmate's activities and behavior until the sentence of death is imposed.
- 12.4 Conditions of Confinement – The ASPC-Eyman or ASPC-Perryville Warden shall:

- 12.4.1 Ensure none of the inmate's personal property is transferred with the inmate, except as provided in this section.
- 12.4.2 Have the inmate's personal property inventoried in their presence before the transfer of cells occurs and then have it boxed, sealed, and removed from the cell. Store the inmate's property pending receipt of written instruction by the inmate regarding disposition of property or otherwise dispose of the property as outlined in Section 2.0.
- 12.4.3 Ensure all remaining property possessed by the inmate in the cell comply with indigent status items; any exceptions must be pre-approved in writing by the Administrative Team. The inmate may retain limited consumable commissary items until the time of the last meal.
- 12.4.4 Allow the inmate to keep in the cell one box each of legal and faith-based materials, a pencil and paper, and a book or periodical.
- 12.4.5 Issue the inmate a new mattress, pillow, and bedding.
- 12.4.6 Provide the inmate necessary hygiene supplies, including a towel and washcloth, and exchange these items on a daily basis.
- 12.4.7 Issue the inmate a clean set of clothing and bedding daily.
- 12.4.8 Ensure all inmate medications are unit-dosed and, when available issued in liquid form, and none of the inmate's medication including over-the-counter medications be dispensed or maintained by the inmate as Keep-on-Person.
  - 12.4.8.1 CHP staff shall deliver the inmate's medication to the single-person cell on Death Row at Browning Unit or the Lumley Unit.
- 12.4.9 Ensure the inmate has access to a Department television set and does not have access to any other appliances.
- 12.4.10 Ensure the inmate has access to their Department-issued tablet, if applicable.
- 12.4.11 Continue to provide outdoor exercise and showers, non-contact visits and phone calls per the current schedule for other Death Row inmates in Browning Unit or the Lumley Unit.
- 12.4.12 Allow other items, if recommended by the Administrative Team and approved by the Director.
- 12.5 Upon a showing of a valid safety or security concern the inmate may be transferred to a single-person cell on Death Row at Browning Unit or the Lumley Unit any time from receipt of a warrant of execution up and until seven days prior to the execution. Sections 12.1 through 12.4.12 remain applicable.
  - 12.5.1 Any request to transfer the inmate prior to seven days before the execution must be made in writing and approved by the Director.

### **13.0 SEVEN DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE**

- 13.1 The Administrative Team:

- 13.1.1 Directs the initiation of the Continuous Observation Log commencing on the seventh day prior to the day of the execution. The log shall follow the inmate from ASPC-Eyman or ASPC-Perryville to Housing Unit 9 and be maintained until the execution occurs or a stay of execution is issued.

#### **14.0 TWO DAYS PRIOR TO THE DAY OF EXECUTION**

##### **14.1 The Administrative Team:**

- 14.1.1 Schedules and conducts on-site scenario training sessions.
- 14.1.2 Confirms adequate staffing and vehicles are in place for regular operations and the execution.
- 14.1.3 Confirms staff assigned to the Maintenance Response Team (MRT) are scheduled and will be on-site or on call at least eight hours prior to the time scheduled for the imposition of sentence.
- 14.1.4 Restricts access to Housing Unit 9 to those with expressly assigned duties.
- 14.1.5 Readies Housing Unit 9 for the transfer of the inmate.
- 14.1.6 Verifies execution inventory, including the chemicals to be used, and equipment checks are completed and open issues resolved.

#### **15.0 TWENTY-FOUR HOURS PRIOR TO THE DAY OF EXECUTION**

##### **15.1 The Administrative Team will ensure:**

- 15.1.1 On-site training exercises continue.
- 15.1.2 Final preparation of Housing Unit 9 is completed. Each room receives final evaluation specific to its functions including security, climate control, lighting, sound, sanitation, and that separation screens and appropriate restraints are at the ready.
- 15.1.3 Detailed staff briefings are provided.
- 15.1.4 The ASPC-Eyman or ASPC-Perryville Warden provides the inmate their last meal by 1900 hours. Every reasonable effort to accommodate the last meal request will have been made. All eating utensils and remaining food and beverage shall be removed upon completion of the meal, no later than 2100 hours.
- 15.1.5 The ASPC-Eyman or ASPC-Perryville Warden allows non-contact visits and phone calls until 2100 hours, at which time they are to be concluded.
  - 15.1.5.1 The inmate's communication privileges shall be terminated at 2100 hours the day prior to the execution, excluding calls from the inmate's Attorney of Record and others as approved by the Administrative Team.
  - 15.1.5.2 The inmate's visitation privileges shall be terminated at 2100 hours the day prior to the execution. The inmate will be permitted two hours of in-person visitation with no more than two Attorneys of Record, concluding one hour prior to the scheduled execution.

15.1.6 The inmate may be offered a mild sedative.

15.1.7 The inmate is prepared for transfer to Housing Unit 9 by the prescribed means.

## **16.0 TWELVE HOURS PRIOR TO AND THROUGH THE EXECUTION**

16.1 Restricting Access to Institution Property – During the final 12 hours prior to the execution, access to ASPC-Eyman or ASPC-Perryville is limited to:

16.1.1 On-duty personnel.

16.1.2 On-duty contract workers.

16.1.3 Volunteers deemed necessary by the Wardens.

16.1.4 Approved delivery vehicles.

16.1.5 Law enforcement personnel on business-related matters.

16.1.6 Restrictions to these facilities shall remain in effect until normal operations resume, at the direction of the Administrative Team, after the execution or a stay of execution is issued.

16.2 Transfer of the inmate from Browning Unit or Lumley Unit to Housing Unit 9

16.2.1 At the direction of the Administrative Team:

16.2.1.1 The inmate shall be secured and transferred by the Restraint Team per the prescribed means at least five hours prior to the execution.

16.2.1.2 The Restraint Team shall take custody of the inmate and the Observation Log. Staff shall assume maintenance of the log until the execution is completed or a stay of execution is issued.

16.2.1.3 Upon the inmate's arrival, the inmate may be offered a mild sedative.

16.2.1.4 No later than five hours prior to the execution, the inmate shall be offered a light meal. All eating utensils and remaining food shall be removed upon completion of the meal.

16.2.2 These time frames may be adjusted, with the approval of the Administrative Team, as necessary in the event of a stay of execution or other exigencies.

16.3 Housing Unit 9 Conditions of Confinement

16.3.1 The inmate shall remain on Continuous Watch upon transfer to Housing Unit 9. Staff shall record observations and make entries in the Observation Record during the final five hours in hours and minutes.

16.3.2 The inmate shall be issued one pair each of pants, undergarments and socks, and a shirt on the morning of the execution.

16.3.3 The cell shall be furnished with a mattress, pillow and pillowcase, one each top and bottom sheet, a blanket, a washcloth and towel, and toilet paper.

16.3.4 The inmate may have a pencil and paper, faith-based items, a book or periodical and necessary hygiene supplies (liquid soap, toothpaste) and a toothbrush and comb. Female inmates shall be provided feminine hygiene, as necessary. These items may be made available only for the duration of the use and shall be removed immediately thereafter. Any other requested property shall require approval by the Administrative Team, and shall be documented.

#### 16.4 Additional Operations Requirements

16.4.1 Witness Escort Teams shall process, transport, and remain with pre-approved witnesses, including inmate witnesses, legal witnesses, Media Witnesses, and victim(s) witnesses through the conclusion of the execution and their return to designated staging areas per prescribed means.

16.4.1.1 Other than inmate witnesses and legal witnesses, which may be combined, teams shall ensure each witness group is separated from the other witness groups at all times, to the greatest extent possible.

16.4.2 Witness Escort Teams shall provide a brief overview of the execution for all witnesses. Witness Escort Teams shall advise witnesses that the curtains in the execution chamber may be drawn prior to the conclusion of the execution in the event of a legitimate penological objective which would merit such closure and then reopened when the execution resumes, and that an IV/Medical Team member will enter into the chamber and physically manipulate the inmate to check consciousness. The brief overview shall also include information on what a particular witness group may or may not bring into Housing Unit 9 along with pertinent safety information about Housing Unit 9.

16.4.2.1 In the event the inmate has designated an attorney to witness the execution, temporary office space will be provided for the inmate's counsel in a designated location during the scheduled day of execution. One attorney and two additional members of the legal team may be permitted to remain in the office space during the execution. The inmate's legal team will be permitted to bring into the temporary office space one mobile phone, one tablet, and one laptop. While the attorney witness is in the witness room, a member of the Witness Escort Team shall hold one Department-issued mobile phone, to be made available to the attorney in exigent circumstances. The mobile phone may not be used inside the witness room.

16.4.3 Upon the direction of the Director to proceed:

16.4.3.1 The IV/Medical Team shall enter the holding cell to medically assess the inmate.

16.4.3.2 Once the IV/Medical Team has completed their medical assessment of the inmate, the Administrative Team Leader shall direct the Housing Unit 9 Section Leader to prepare the inmate for escort into the execution chamber.

- 16.4.3.3 Prior to moving the inmate from the holding cell to the execution table, the Director shall confer with the Attorney General or designee and the Governor or designee to confirm there is no legal impediment to proceeding with the lawful execution.
  - 16.4.3.4 When the inmate is secured on the execution table by the team and readied by the IV/Medical Team, the Administrative Team Leader shall advise the Director.
  - 16.4.3.5 The Director shall reconfirm with the Attorney General or designee and the Governor or designee that there is no legal impediment to proceeding. Upon oral confirmation that there is no legal impediment to proceeding with the execution, the Director may order the Administrative Team Leader to proceed with the execution.
    - 16.4.3.5.1 If there is a legal impediment the Director shall instruct the Administrative Team Leader to stop, and to notify the inmate and witnesses that the execution has been stayed or delayed. The Administrative Team shall also notify the Witness Coordination Team Leader to notify the Media Relations staff who shall advise the media in the media room.
  - 16.4.3.6 The Housing Unit 9 Section Leader shall read aloud a summary of the Warrant of Execution. The Housing Unit 9 Section Leader shall ask the inmate if they wish to make a last statement. The microphone will remain on during the last statement. It will be turned off in the event the inmate uses vulgarity or makes intentionally offensive statements. If the microphone is turned off, it will be turned back on immediately after the completion of the last statement.
  - 16.4.3.7 The Director shall instruct the IV/Medical Team to initiate disbursement of chemicals by the prescribed means.
- 16.4.4 Pronouncement and Documentation of Death
- 16.4.4.1 Upon completion of the execution process, the IV/Medical Team will confirm death and notify the Director. The Housing Unit 9 Section Leader shall announce that the sentence of death has been carried out as ordered by the court and the execution has been completed.
  - 16.4.4.2 Pursuant to A.R.S. § 13-759(B), upon the execution of a sentence of death, the Director or designee shall return the death warrant to the court which pronounced the sentence and the Arizona Supreme Court, showing the time, mode, and manner in which it was executed. (See Attachments B and C)
  - 16.4.4.3 In coordination with the Office of the Inspector General, the Medical Examiner or their designee shall take custody of the body and issue a Certificate of Death.

- 16.5 Stay of Execution – Upon receipt of notification that a court has issued a Stay of Execution; the Director shall consult with the Attorney General’s Office and advise the Administrative Team.
  - 16.5.1 Upon receipt of notification, the Housing Unit 9 Section Leader shall:
    - 16.5.1.1 Advise the witnesses a Stay of Execution has been issued.
    - 16.5.1.2 Following consultation with the Director, direct that the IV lines be removed by the IV/Medical Team, if applicable, and direct the Restraint Team to return the inmate to the holding cell.
  - 16.5.2 The Administrative Team shall inform the following teams of the Stay of Execution:
    - 16.5.2.1 Traffic Control Team Leader
    - 16.5.2.2 Population Assessment
    - 16.5.2.3 ESU Team Leader
    - 16.5.2.4 Media Relations Director
    - 16.5.2.5 Victim Services Team Leader
    - 16.5.2.6 Witness Escort Team Leader
  - 16.5.3 The Traffic Control Team Leader shall notify the Protest Team of the issuance of the Stay of Execution.
  - 16.5.4 The Witness Escort Team shall commence escorting witness groups from Housing Unit 9 as set forth herein.
  - 16.5.5 Upon the Administrative Team’s instruction, the inmate shall be transported from Housing Unit 9 back to Death Row at Browning Unit or Lumley Unit and their personal possessions returned. Following the transport, the inmate will be permitted to consult with the inmate’s attorney(s) upon request.

## 17.0 POST-EXECUTION

- 17.1 Post-Execution Procedures
  - 17.1.1 Upon the pronouncement of death, the Director shall notify the Governor or designee and the Attorney General or designee via telephone that the sentence has been carried out and the time of death.
  - 17.1.2 A Criminal Investigations Unit Investigator and the Medical Examiner or their designee(s) will take photos of the inmate’s body.
    - 17.1.2.1 While in restraints prior to being placed in the body bag,
    - 17.1.2.2 Without restraints prior to being placed in the body bag,
    - 17.1.2.3 Sealed in the body bag, and
    - 17.1.2.4 A photo of the seal in place on the bag.

- 17.1.3 The inmate's body will be placed on a Medical Examiner's gurney and released into the custody of a Medical Examiner's Office.
- 17.1.4 Once the inmate's body is placed in a Medical Examiner's transport vehicle, it will be escorted off the premises. The Medical Examiner's transport vehicle will take the inmate's body to the Medical Examiner's Office designated by the county.
- 17.2 Removing Witnesses from Housing Unit 9
  - 17.2.1 After the pronouncement of death, witnesses shall be escorted in the prescribed order from the facility by the Witness Escort Team.
    - 17.2.1.1 Each group of witnesses will continue to be kept separate from the other groups at all times.
    - 17.2.1.2 Media Witnesses will return to the media staging area, prior to returning to the media room to participate in the media briefing.
    - 17.2.1.3 Victim witnesses planning to attend the media briefing will return to their staging area, prior to returning to the media room to participate in the media briefing.
  - 17.2.2 Media may remain on site in a designated location outside the secure perimeter for a limited time to complete live broadcasts.
- 17.3 Debriefing
  - 17.3.1 Immediately following the execution, the Administrative Team will conduct a debriefing with the team members involved in the execution.
- 17.4 Site Clean Up
  - 17.4.1 At the direction of the Administrative Team, the Maintenance Response Team will ensure Housing Unit 9 is cleaned and secured.
  - 17.4.2 Institutional staff trained in infectious diseases preventive practices will utilize appropriate precautions in cleaning Housing Unit 9.
- 17.5 Normal Operations
  - 17.5.1 Department personnel shall be deactivated at the direction of the Administrative Team.
- 17.6 Post-Execution Review
  - 17.6.1 Within 14 days of the execution, a full review of the execution will be initiated. This includes a review of training and preparation activities, day-of execution procedures and documentation, and necessary process revisions. The Post-Execution Review must be documented in a report, and will include, at a minimum, the following:
    - 17.6.1.1 Director
    - 17.6.1.2 General Counsel
    - 17.6.1.3 Inspector General

17.6.1.4 Administrative Team

17.6.1.5 Housing Unit 9 Section Leader

17.7 Execution Documentation

- 17.7.1 The Administrative Team shall be responsible for gathering all documents pertaining to the execution and forwarding to the Department's General Counsel for archive. The General Counsel shall maintain the official record of the execution.

**18.0 PROCEDURES FOR NEWS MEDIA**

- 18.1 Reasonable efforts will be made to accommodate representatives of the news media before, during, and after a scheduled execution. However, the Department reserves the right to regulate media access to ensure the orderly and safe operations of its prisons.
- 18.2 The Media Relations Office shall provide the news media with regular briefings or updates if new or noteworthy events transpire.
- 18.3 News Media Attendance
- 18.3.1 Members of the media may be invited as either Media Witnesses or Media Corps reporters.
- 18.3.1.1 Media Witnesses refers to the individual(s) who have requested and been selected to witness an execution and following the execution they shall agree to speak to the Media Corps as part of the media briefing to share their remarks, observations and answer questions in front of the Media Corps prior to the filing or reporting their story.
- 18.3.1.2 Media Corps reporters refers to a group of journalist, reporters, and media representatives who are collectively working on reporting on a specific subject, location or person.
- 18.3.2 Media Witnesses invited to witness the execution are expected to provide an accounting of the execution to the Media Corps reporters gathered in the media room for the media briefing.
- 18.3.3 Approved members of the Media Corps will be invited to the media room prior to and during the execution, in order to report out the statements made by Media Witnesses and other appropriate witnesses during the media briefing.
- 18.4 Media Orientation and Releases – The Media Relations Office shall provide and work with members of the media (those identified as Media Witnesses and those identified as Media Corps) with all necessary forms to ensure approval and general information regarding date, time, and location of the media room and media briefing to check in for reporting on the execution.
- 18.4.1 The Media Relations Office will inform the media if they have been selected as Media Witnesses and will advise those chosen of the witness procedures.
- 18.4.2 Those selected as Media Witnesses shall be required to complete and sign a Media Witness Agreement, Form 710-7, in addition to the Witness Agreement, Form 710-6, prior to the execution.

## 18.5 Media Room Operations

- 18.5.1 All members of the media who have been approved to be onsite on the day of the execution, either as a Media Witness or as a member of the Media Corps will report to the media room.
- 18.5.2 When it is time for Media Witnesses to move from the media room to the execution viewing area, they will be escorted. The movement process may include a short stay in a Media Witness staging area. When the execution is over, the Media Witnesses will be escorted back to the media room, and the movement process after the execution may include a short stay in the Media Witness staging area.
- 18.5.3 Members of the Media Corps will stay in the media room throughout the execution.
- 18.5.4 The Media Relations Office will commence the media briefing after the execution. The start time will be dependent on witnesses, including any from the families of the victims.
- 18.5.5 Media Witnesses will provide their remarks, observations, and answer questions in front of and to the Media Corps prior to filing or reporting their story.

## 18.6 Briefing Packets and Updates

- 18.6.1 The Media Relations Office shall provide media briefing packets.
- 18.6.2 A brief summary of the inmate's activities during the final 24 hours, activities related to the execution and sequence of events, may be provided.

## 18.7 Media Witness Selection

- 18.7.1 No more than five members of the media may be selected to witness the execution as witnesses. Media Witnesses will be selected from among any of the following mediums. Selected Media Witnesses shall agree to speak to the Media Corps as part of the media briefing:
  - 18.7.1.1 Print/Digital Print
  - 18.7.1.2 Radio/Digital Audio
  - 18.7.1.3 Television/Streaming
  - 18.7.1.4 Local media representative in the market where the crime was committed
- 18.7.2 Media is held to the same standards for conduct as are all other witnesses.
- 18.7.3 The Administrative Team may exclude any Media Witness at any time if the Media Witness fails to abide by the provisions of the Witness Agreement and Media Witness Agreement (Forms 710-6 and 710-7).
- 18.7.4 Media Witnesses are not permitted to bring unauthorized items into Housing Unit 9. Unauthorized items include:
  - 18.7.4.1 Electronic or mechanical recording devices

18.7.4.2 Still, moving picture or video tape cameras

18.7.4.3 Smart devices or cell phones

18.7.4.4 Broadcasting or streaming devices

18.7.5 Each Media Witness shall be provided a tablet of paper and a pencil or pen to take notes from the time they complete security screening until they are returned to the media room after the conclusion of the execution.

## **IMPLEMENTATION**

The ASPC-Eyman and ASPC-Perryville Wardens shall maintain Post Order #10, Execution Watch Security Officer, delineating post-specific responsibilities.

## **ATTACHMENTS**

Attachment A - Letter of Invitation to Witness an Execution

Attachment B - Return of Warrant Notification - Supreme Court

Attachment C - Return of Warrant Notification - Superior Court

Attachment D - Preparation and Administration of Chemicals

Attachment E - Lethal Gas

## **FORMS LIST**

105-6, Correctional Service Log

710-1, Method of Execution

710-2, Inmate Witness Information

710-3, Disposition of Remains

710-4, Authorized Witnesses for Execution Log (A, B and C)

710-5, Last Meal Request

710-6, Witness Agreement

710-7, Media Witness Agreement

710-8, Notice of Execution Involvement

711-1, Notification in Case of Accident, Serious Illness or Death and Disposition of Property

## **RELATED POLICIES**

DO #201, Legal Services - Records Release

DO #711, Notification of Inmate Hospitalization or Death

DO #911, Inmate Visitation

## **AUTHORITY**

A.R.S. § 1-215(29), Definitions

A.R.S. § 13-105(30), Definitions

A.R.S. § 13-757(B), Methods of Infliction of Sentence of Death

A.R.S. § 13-757(C), Identity of Executioners

A.R.S. § 13-758, Persons Present at Execution of Sentence of Death; Limitations

A.R.S. § 13-759(B), Return Upon Death Warrant

A.R.S. § 13-4021 through 13-4026, Insanity or Pregnancy of Persons under Death Sentence  
Arizona Rules of Criminal Procedure, Rule 31.23(c)(3), Date and Time of Execution; Notification to Supreme Court

## ATTACHMENT A

### SAMPLE - LETTER OF INVITATION TO WITNESS AN EXECUTION

Date

Name

Mailing address

Mailing address

Dear \_\_\_\_\_

Thank you for expressing interesting in serving as a witness.

Please be advised that you are selected to witness the execution of \_\_\_\_\_  
[name] \_\_\_\_\_ [number], on \_\_\_\_\_ [date] at \_\_\_\_\_ [time] subject to the conditions stipulated  
in this correspondence.

All witnesses are required to complete the *Witness Agreement* form and return it to the Media Relations Office of the Arizona Department of Corrections, Rehabilitation and Reentry no later than \_\_\_\_\_ [date] by fax, mail, hand delivery, or as an email attachment.

Please promptly respond to this letter for any requested ADA accommodations.

Failure to fully complete and return on time the required forms with receipt by the Department before 5:00 P.M. on \_\_\_\_\_ [date], will result in your removal from the list of approved witnesses.

For additional information and to confirm receipt of your materials, you are welcome to contact the Media Relations Office by phone at (602) 542-3133, by fax at (602) 542-2859 or e-mail at [MEDIA@azadc.gov](mailto:MEDIA@azadc.gov).

Sincerely,

Communications Director

Applicable Attachments:

\_\_\_ *Witness Agreement form*

\_\_\_ *Media Witness Agreement form*

**ATTACHMENT B**

**SAMPLE - RETURN OF WARRANT NOTIFICATION**

Supreme Court

**DATE:**

The Honorable  
Chief Justice of the Supreme Court of Arizona  
402 Arizona State Courts Building  
1501 West Washington Street  
Phoenix, Arizona 85007-3329

**RE:** Return of Warrant of Execution

State vs.

Supreme Court Number:

County Number:

Chief Justice:

This is to advise you that in accordance with the Warrant of Execution, Supreme Court Number, and pursuant to A.R.S. § 13-759(B), the imposition of the sentence of death of \_\_\_\_\_ was carried out at the Arizona State Prison Complex-Florence on \_\_\_\_\_ [date], at \_\_\_\_\_ A.M./P.M.

The mode and manner of the death was by lethal \_\_\_\_\_.

Sincerely,

Ryan Thornell, Ph.D  
Director  
Arizona Department of Corrections, Rehabilitation and Reentry

**ATTACHMENT C**

**SAMPLE - RETURN OF WARRANT NOTIFICATION**

Superior Court

**DATE:**

The Honorable  
Presiding Judge  
Superior Court of Arizona  
In County  
\_\_\_\_\_, Arizona

**RE:** Return of Warrant of Execution

State vs.

Supreme Court Number:

County Number:

Judge \_\_\_\_\_:

This is to advise you that in accordance with the Warrant of Execution, Supreme Court Number, and pursuant to A.R.S. § 13-759(B), the imposition of the sentence of death of \_\_\_\_\_ was carried out at the Arizona State Prison Complex-Florence on \_\_\_\_\_ [date], at \_\_\_\_\_ A.M./P.M.

The mode and manner of the death was by lethal \_\_\_\_\_.

Sincerely,

Ryan Thornell, Ph.D  
Director  
Arizona Department of Corrections, Rehabilitation and Reentry

## **ATTACHMENT D**

### **PREPARATION AND ADMINISTRATION OF CHEMICALS**

#### **A. Obtaining Chemicals and Equipment**

1. Upon receipt of the Warrant of Execution, the Administrative Team shall:
  - I. Confirm the equipment for the procedure and ensure all equipment necessary to properly conduct the procedure is on site, immediately available for use and functioning properly.
  - II. In consultation with appropriate personnel, ensure all medical equipment, including an ultrasound machine for assistance with venous access and a backup electrocardiograph is on site, immediately available for use and functioning/calibrated properly.
  - III. In consultation with appropriate personnel, ensure that complete sets of chemicals are on site, not expired, and immediately available for use. ADCRR will only use chemicals in an execution that have an expiration or beyond-use date that is after the date that an execution is carried out. If the chemical's expiration or beyond-use date states only a month and year (e.g., "June 2027"), then ADCRR will not use that chemical after the last day of the month specified.
2. Upon receipt of the Warrant of Execution, the Director's Office shall ensure the chemicals are ordered, arrive as scheduled and are properly stored. The chemicals shall be stored in a secured, locked area that is temperature regulated and monitored to ensure compliance with manufacturer specifications, under the direct control of the Housing Unit 9 Section Leader.

#### **B. Preparation of Chemicals**

1. Prior to the preparation of the chemicals, the Director shall verify the chemicals to be used, the quantity and the expiration date.
2. At the appropriate time, the Director's Office shall transfer custody of the chemicals to the IV/Medical Team to begin the chemical(s) and syringe preparation in the chemical room, under the direct supervision by the IV/Medical Team Leader.
3. The IV/Medical Team Leader will assign a team member(s) to assist preparing each chemical and the corresponding syringe. The IV/Medical Team Leader will supervise the process. The IV/Medical Team Leader shall prepare the designated chemical(s) and syringes as follows:
  - One-drug protocol - One full set of syringes is used in the implementation of the death sentence (Bank "A") and an additional complete set of the necessary chemicals shall be obtained and kept available in the chemical room, but need not be drawn into syringes unless the primary dosages prove to be insufficient for successful completion of the execution.
4. The IV/Medical Team Leader shall be responsible for preparing and labeling the assigned sterile syringes in a distinctive manner identifying the specific chemical contained in each syringe by i) assigned number, ii) chemical name, iii) chemical amount and iv) the designated color, as set forth in the chemical charts below. This information shall be preprinted on a label, with one label affixed to each syringe to ensure the label remains visible.

C. Chemical Charts; Choice of Protocol

1. Charts for all chemical protocols follow. The Director shall have the sole discretion as to which drug protocol will be used for the scheduled execution. This decision will be provided to the inmate and their counsel of record in writing at the time the state files a request for Warrant of Execution in the Arizona Supreme Court. If the Department is able to obtain the chemical pentobarbital in sufficient quantity and quality to successfully implement the one-drug protocol with pentobarbital set forth in Chart A, then the Director shall use the one-drug protocol with pentobarbital set forth in Chart A as the drug protocol for execution. If the Department is unable to obtain such pentobarbital, but is able to obtain the chemical sodium pentothal in sufficient quantity and quality to successfully implement the one-drug protocol with sodium pentothal set forth in Chart B, then the Director shall use the one-drug protocol with sodium pentothal set forth in Chart B as the drug protocol for execution.
2. A quantitative analysis of any compounded or non-compounded chemical to be used in the execution shall be provided upon request within 10 calendar days after the state seeks a Warrant of Execution. The decision to use a compounded or non-compounded chemical will be provided to the inmate and their counsel of record in writing at the time the state files a request for Warrant of Execution in the Arizona Supreme Court.

**CHART A: ONE-DRUG PROTOCOL WITH PENTOBARBITAL**

CHEMICAL CHART	
Syringe No.	Label
1A	20mL Sterile Saline Solution, <b>BLACK</b>
2A	2.5gm Pentobarbital, <b>GREEN</b>
3A	2.5gm Pentobarbital, <b>GREEN</b>
4A	20mL Sterile Saline Solution, <b>BLACK</b>

- Syringes 2A, and 3A, will have a dose of 2.5 grams (gm) of Pentobarbital for a total of 5 grams. Each syringe containing Pentobarbital shall have a **GREEN** label which contains the name of chemical, chemical amount and the designated syringe number.
- Syringes 1A, and 4A, each contain 20 milliliters (mL) of a sterile saline solution, and shall have a **BLACK** label which contains the name of the chemical, chemical amount and the designated syringe number.

**CHART B: ONE-DRUG PROTOCOL WITH SODIUM PENTOTHAL**

CHEMICAL CHART	
Syringe No.	Label
1A	20mL Sterile Saline Solution, <b>BLACK</b>
2A	1.25gm Sodium Pentothal, <b>GREEN</b>
3A	1.25gm Sodium Pentothal, <b>GREEN</b>
4A	1.25gm Sodium Pentothal, <b>GREEN</b>
5A	1.25gm Sodium Pentothal, <b>GREEN</b>
6A	20mL Sterile Saline Solution, <b>BLACK</b>

- Syringes 2A, 3A, 4A, 5A, each contain 1.25gm/50mL of Sodium Pentothal / 1 in 50mL of sterile water in four 50mL syringes for a total dose of 5 grams of Sodium Pentothal. Each syringe containing Sodium Pentothal shall have a **GREEN** label which contains the name of chemical, chemical amount and the designated syringe number.
  - Syringes 1A, and 6A, each contain 20mL of a sterile saline solution, and shall have a **BLACK** label which contains the name of the chemical, chemical amount and the designated syringe number.
3. After the IV/Medical Team prepares all required syringes with the proper chemicals and labels as provided in the Chemical Chart, the IV/Medical Team shall attach one complete set of the prepared and labeled syringes to the 2-Gang, 2-Way Manifold in the order in which the chemical(s) are to be administered. The syringes will be attached to the 2-Gang, 2-Way Manifold in a manner to ensure there is no crowding, with each syringe resting in its corresponding place in the shadow board which is labeled with the name of the chemical, color, chemical amount and the designated syringe number.
  4. The syringes shall be affixed in such a manner to ensure the syringe labels are clearly visible. Prior to attaching the syringes to the 2-Gang, 2-Way Manifold, the flow of each gauge on the manifold shall be checked by the IV/Medical Team Leader running the sterile saline solution through the line to confirm there is no obstruction.
  5. After all syringes are prepared and affixed to the 2-Gang, 2-Way Manifold in proper order, the IV/Medical Team Leader shall confirm that all syringes are properly labeled and attached to the manifold in the order in which the chemicals are to be administered as designated by the Chemical Chart. Each chemical shall be administered in the predetermined order in which the syringes are affixed to the manifold.
  6. The quantities and types of chemicals prepared and administered as set forth in this DO may not be changed in any manner without prior documented approval of the Director and publication of an amended DO. The Director's discretion with regard to the quantities and types of chemicals is otherwise limited to what is expressly set forth in this DO. If, after a Warrant of Execution has been issued, the Director determines that it is necessary to change the quantities or types of chemicals to be used in the impending execution, then the Director shall immediately notify the inmate and the inmate's counsel in writing, shall withdraw the existing Warrant of Execution, and shall apply for a new Warrant of Execution.
  7. All prepared chemicals shall be utilized or properly disposed of in a timely manner after the time designated for the execution to occur.
  8. The chemical amounts as set forth in the Chemical Chart are designated for the execution of persons weighing 500 pounds or less. The chemical amounts will be reviewed and may be revised as necessary for an inmate exceeding this body weight.
  9. The Recorder is responsible for completing the Correctional Service Log, Form 105-6. The Recorder shall document on the form the amount of each chemical administered and confirm that it was administered in the order set forth in the Chemical Chart. Any deviation from the written procedure shall be noted and explained on the form.

**D. Movement and Monitoring of Inmate**

1. Prior to moving the inmate from the holding cell to the execution table, the Director will confer with the Attorney General or designee and the Governor or designee to confirm there is no legal impediment to proceeding with the lawful execution and there are no motions pending before a court which may stay further proceedings.

2. The inmate may be offered a mild sedative through the Contracted Healthcare Provider (CHP) based on the inmate's need. The sedative shall be provided to the inmate no later than four hours prior to the execution, unless it is determined medically necessary. The offer of the mild sedative, the inmate's decision, and the administration of the sedative, if chosen, shall be documented in the watch log.
  - a. Time and dosage of the sedative shall be provided to the IV/Medical Team through the Director or designee.
3. At the designated time, the overhead microphone will be turned on and shall be left on until the completion of the execution, and the inmate will be brought into the execution room and secured on the table by the prescribed means with the inmate's arms positioned at an angle away from the inmate's side. Existing closed-circuit monitors will allow witnesses in the designated witness room to observe this process.
4. The inmate will be positioned to enable the IV/Medical Team Leader and the Housing Unit 9 Section Leader to directly observe the inmate and to monitor the inmate's face with the aid of a high-resolution color camera and a high-resolution color monitor.
5. After the inmate has been secured to the execution table, the Restraint Team Leader shall personally check the restraints which secure the inmate to the table to ensure they are not so restrictive as to impede the inmate's circulation, yet sufficient to prevent the inmate from manipulating the catheter and IV lines.
6. A microphone is outfitted in the execution room. The Administrative Team Leader will confirm that the microphone is functioning properly, and that the inmate can be heard in the chemical room and in the witness room. In the event the microphone in the execution room is not functioning as intended, a microphone will be affixed to the inmate's shirt and shall be left on until the completion of the execution, to enable the persons in the witness room and the IV/Medical Team to hear any utterances or noises made by the inmate throughout the procedure. The Administrative Team Leader will confirm the microphone is functioning properly, and that the inmate can be heard in the chemical room and in the witness room.
7. The IV/Medical Team members will attach the leads from the electrocardiograph to the inmate's chest once the inmate is secured. The IV/Medical Team Leader shall confirm that the electrocardiograph is functioning properly and that the proper graph paper is used. A backup electrocardiograph shall be on site and readily available if necessary. Prior to the day of, and on the day of the execution both electrocardiograph instruments shall be checked to confirm they are functioning properly and calibrated.
8. An IV/Medical Team member shall be assigned to monitor the EKG and mark the EKG graph paper at the commencement and completion of the administration of the lethal chemical(s).
9. Throughout the procedure, the IV/Medical Team Leader shall monitor the inmate's level of consciousness and electrocardiograph readings utilizing direct observation, audio equipment, camera and monitor as well as any other medically approved method(s) deemed necessary by the IV/Medical Team Leader. The IV/Medical Team Leader shall be responsible for monitoring the inmate's level of consciousness.
10. Existing closed-circuit monitors will allow witnesses in the designated witness room to observe the IV/Medical Team's vein assessment and placement of IV catheters in the inmate. In addition, the audio feed from the overhead microphone and from the microphone affixed to the inmate's shirt shall remain on until the completion of the execution.

11. A camera will be focused on the area in the chemical room in which syringes are injected into the IV line, and existing closed-circuit monitors will allow witnesses in the designated witness room to observe the administration of the lethal injection drug(s), including the administration of additional or subsequent doses of the drug(s). All cameras and monitors shall be placed in such a manner so as to ensure and preserve at all times the anonymity of all personnel involved in the execution process.

**E. Intravenous Lines**

1. The IV/Medical Team Leader will determine the best sites to insert a primary IV catheter and a backup IV catheter in two separate locations in the peripheral veins utilizing appropriate medical procedures and will present that information to the Director. The Director acting upon the advice of the IV/Medical Team Leader shall determine the catheter sites.
2. The IV/Medical Team members shall insert a primary IV catheter and a backup IV catheter. To ensure proper insertion in the vein, the assigned IV/Medical Team members should watch for the flashback of blood at the catheter hub in compliance with medical procedures.
3. The IV/Medical Team Leader shall ensure the catheters are properly secured and properly connected to the IV lines and out of reach of the inmate's hands. A flow of sterile saline solution shall be started in each line and administered at a slow rate to keep the lines open.
4. The primary IV catheter will be used to administer the lethal chemical(s) and the backup catheter will be reserved in the event of the failure of the first line. Any failure of a venous access line shall be immediately reported to the Director.
5. The IV catheter in use shall remain visible to the Housing Unit 9 Section Leader throughout the procedure.
6. The Housing Unit 9 Section Leader shall physically remain in the room with the inmate throughout the administration of the lethal chemical(s) in a position sufficient to clearly observe the inmate and the primary and backup IV sites for any potential problems and shall immediately notify the IV/Medical Team Leader and Director should any issue occur. Upon receipt of such notification, the Director may stop the proceedings and take all steps necessary in consultation with the IV/Medical Team Leader prior to proceeding further with the execution.
7. Should the use of the backup IV catheter be determined to be necessary, a set of backup chemicals should be administered in the backup IV.

**F. Administration of Chemicals – One-Drug Protocol**

1. At the time the execution is to commence and prior to administering the lethal chemical, the Director will reconfirm with the Attorney General or designee and the Governor or designee that there is no legal impediment to proceeding with the execution. Upon receipt of oral confirmation that there is no legal impediment, the Director will order the administration of the chemical to begin.
2. Upon receipt of the Director's order and under observation of the IV/Medical Team Leader, the IV/Medical Team Leader will instruct the assigned IV/Medical Team member(s) to begin dispensing the chemicals under the chosen drug protocol.
  - a. Pentobarbital - Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution (syringe 1A), followed by the full dose of the lethal chemical (syringes 2A and 3A) immediately followed by the sterile saline solution flush (syringe 4A).



2. Trained medical personnel and emergency transportation, neither of which is involved in the execution process, shall be available in proximity to respond to the inmate should any medical emergency arise at any time before the order to proceed with the execution is issued by the Director.
3. If at any point any team member determines that any part of the execution process is not going according to procedure, they shall advise the IV/Medical Team Leader who shall immediately notify the Director. The Director may consult with persons deemed appropriate and will determine to go forward with the procedure, limited to the option provided in Attachment D, §F(6), or to stand down. If the Director determines to stand down, then trained medical staff shall make every reasonable effort to revive the inmate.
4. There shall be no deviation from the procedures as set forth herein, except as expressly allowed herein. There shall be no deviation from the procedures as set forth herein without prior consent from the Director. Although such consent may be verbal or in writing, the Director must memorialize and maintain a written record of having granted any deviations, which record must include a detailed description of the deviation, the basis for the deviation, and the basis for the Director's consent thereto.

#### H. Post Execution Procedures

1. Upon the pronouncement of death, the Director shall notify the Governor or designee and the Attorney General or designee via telephone that the sentence has been carried out and the time that death occurred.
2. An IV/Medical Team member will clamp any utilized IV lines leaving them connected to the inmate for examination by a Medical Examiner.
3. A Criminal Investigations Unit Investigator and a Medical Examiner will take photos of the inmate's body:
  - While in restraints prior to being placed in the body bag,
  - Without restraints prior to being placed in the body bag,
  - Sealed in the body bag, and
  - A photo of the seal in place on the bag.
4. The inmate's body will be placed on a Medical Examiner's gurney and released into the custody of a Medical Examiner's Office.
5. Once the inmate's body is placed in a Medical Examiner's transport vehicle, it will be escorted off the premises. The Medical Examiner's transport vehicle will take the inmate's body to the Medical Examiner's Office designated by the county.

#### I. Documentation of Chemicals and Stay

1. In the event that a pending stay results in more than a two-hour delay, the catheters shall be removed, if applicable, and the inmate shall be returned to the holding cell until further notice.
2. The Correctional Service Logs, the list of identifiers and the EKG tape shall be submitted to the Department's General Counsel, upon completion of the execution, for review and storage.

#### J. Debrief and Policy Review

1. The Administrative, Restraint, and IV/Medical Teams will participate in an informal debriefing immediately upon completion of the event.

2. Upon an assignment to a Team, team members shall review DO #710, Execution Procedures.
3. Periodically, and in the discretion of the Director, a review of DO #710, Execution Procedures along with this attachment may be reviewed to confirm it remains consistent with the law. General Counsel shall advise the Director immediately upon any change that may impact these procedures.

## ATTACHMENT E

### LETHAL GAS

1. Approximately 10 minutes before the execution, Chemical Operators #1 and #2 shall sequentially pour 6 QUARTS OF DISTILLED WATER and 5 PINTS OF SULPHURIC ACID into the mixing pot (9). THE WATER SHOULD BE POURED FIRST. UPON COMPLETION OF POURING THE WATER, 5 PINTS OF SULFURIC ACID SHOULD BE POURED NEXT. RUBBER GLOVES AND GLASS FUNNEL SHALL BE USED. THE ACID MUST BE POURED SLOWLY TO PREVENT SPLATTERING. This mixture should remain in the mixing pot (9) for approximately 10 minutes so as to attain an adequate mix and maximum temperature. Keep away from acid fumes and possible splatter caused by boiling. This mixture will yield a 41.5% concentration.
  - Chemical Operator #1 shall ensure that the mixture shall not pass to the chair receptacle until after the Chamber door is closed and instructions received from the Chamber Operator.
  - The Caustic Soda Neutralizing solution shall be prepared by Chemical Operator #2 immediately after the completion of the acid mixture.
  - Chemical Operator #2 shall put on rubber gloves and dissolve 1 pound of CAUSTIC SODA into 2½ gallons of water already in a pour-spout can. Once the mixing process is complete, this solution should be kept near the mixing on the floor in close proximity to the mixing pot (9).
  - Chemical Operator #2 shall dissolve 30 grains of Phenolphthalein Solution in 4 ounces of alcohol. If the solution is pre-mixed, then skip this step.
  - Chemical Operator #2 shall relay to the Housing Unit 9 Team Leader that the chemical mixing process is complete.
  - The Housing Unit 9 Team Leader will notify the Director that the chemical mixing is complete and the chamber is ready.
  - The Director will instruct the Housing Unit 9 Team Leader to move the inmate to the chamber.
2. The inmate shall be brought into the execution room and placed in the Chamber and strapped in the chair by the Restraint Team. The internal Chamber microphone will be turned on and a microphone will be affixed to the inmate's shirt and also turned on; both microphones shall remain on until the completion of the execution (the microphones will remain on during any last statement by the inmate, but will be turned off in the event the inmate uses vulgarity or makes intentionally offensive statements; if the microphones are turned off, they will be turned back on immediately after the completion of the last statement) to enable the persons in the witness room and the Housing Unit 9 Team Leader to hear any utterances or noises made by the inmate throughout the procedure. The Housing Unit 9 Team Leader will confirm that the microphones are functioning properly and that the inmate can be heard in the operations room and in the witness room.

- a. Closed-circuit monitor(s) will allow witnesses in the designated witness room to observe this process and shall remain on until the completion of the execution. All cameras and monitors shall be placed in such a manner so as to ensure and preserve at all times the anonymity of all personnel involved in the execution process.
3. Chemical Operator #2 shall place 4 petri dishes containing the Phenolphthalein Solution inside the chamber so as to be clearly visible to the Chamber Operator. (Location should be at each designated corner of the chamber.)
4. After the inmate is strapped in the chair, Chemical Operator #2 shall verify that the petri dishes containing Phenolphthalein are still in their proper place.
5. Chemical Operator #2 shall inspect the GAS VALVE LEVER (1) and GAS VALVE POT (10) to ensure that it is dry and in the Closed position. Once this is confirmed, Chemical Operator #2 shall place the sodium cyanide packets in the GAS VALVE POT (10) under the chair.
6. Chemical Operator #2 and the Chamber Operator shall close the Chamber door and ensure that it is properly sealed.
7. The Chamber Operator shall ensure that the fan damper is in the closed position. Once this is confirmed, the chamber fan shall be activated and left on.
  - The manometer H pressure gauge readings on the chamber shall be monitored to determine air tightness of Chamber.
  - The Chamber will be considered air-tight if the manometer gauge to the right has a higher reading than the left.
  - If the readings on both the manometer H gauges remain equal, the Chamber Operator shall notify the Housing Unit 9 Team Leader immediately.
8. The Chamber Operator shall position themselves at the GAS VALVE LEVER (1).
9. The Chamber Operator shall ensure that the Outlet Valve (4) is closed. This Outlet Valve (4) shall remain closed until the chamber is cleared.
10. Chemical Operator #2 shall proceed back to the Chemical preparation room.
11. The Housing Unit 9 Team Leader shall notify the Director that the chamber is ready.
12. Chemical Operator #1 and the Chamber Operator shall release the mixed acid and water from the mixing pot (9) into the Gas Generator by opening the Acid Mixing Pot Valve (Red lever) and Inlet Valve (3). Chemical Operator #1 shall visually observe the liquid drain from the mixing pot. Once fully drained, Chemical Operator #1 shall close the Acid Mixing Pot Valve and place it in the Closed Position.
13. Chemical Operator #1 shall notify the Chamber Operator that the acid mixture is fully drained.
14. The Chamber Operator shall close the inlet valve (3) and advise the Chemical Operators when complete.
15. Chemical Operator #2 shall fill the mixing pot (9) with the Caustic Soda solution.

16. The Chamber Operator shall then advise the Housing Unit 9 Team Leader that the Chamber is ready for use.
17. The Housing Unit 9 Team Leader shall notify the Director that everything is ready to proceed. The Director shall make the final notifications to the Attorney General.
18. The Director shall instruct the Chamber Operator to remove the locking pin of the GAS VALVE LEVER (1) (Sodium Cyanide immersion lever) and open the immersion valve, to drop the pellets into the acid in the gas generator. The Gas Valve Lever (1) shall remain open until the clearing process of the chamber is initiated.
19. With the Chamber in operation, the Housing Unit 9 Team Leader will observe and inform the Recorder as necessary. A member of the IV/Medical Team shall monitor the Inmate and EKG and shall advise the Director when the inmate has expired, providing the corresponding time of death.
20. The Director will announce that the execution has been completed. The Housing Unit 9 Team Leader will instruct the Operators to "Clear the Chamber".
  - NOTE: The length of time required shall be determined by a member of the IV/Medical Team and the Housing Unit 9 Team Leader. It is recommended that this period should be no less than 10 minutes.
21. When the Housing Unit 9 Team Leader announces "Clear the Chamber", the Chamber Operator shall move the exhaust fan damper lever (5) into the open position.
22. The Chamber Operator shall close the GAS VALVE LEVER (1) into the closed position for clearing.
23. Chemical Operator #1 and the Chamber Operator shall drain the Caustic Soda Solution into the gas generator. Chemical Operator #1 shall open the Acid Mixing Pot Valve (9). The Chamber Operator shall open the Inlet Valve (3) and allow caustic soda to fully drain into the gas generator.
24. Chemical Operator #1 shall monitor the CAUSTIC SODA SOLUTION until the Acid Mixing Pot is fully drained and empty.
25. Once the Acid Mixing Pot (9) is empty, Chemical Operator #1 shall close the mixing pot valve (Red Valve) and instruct the Chamber Operator to close the Inlet Valve (3).
26. The Chamber Operator shall inform the Chemical Operators once the Inlet Valve (3) is closed.
27. The Chemical Operator shall fill the mixing pot with water.
28. The Chamber Operator shall open the air manifold intake lever (2), which may be opened with graduated steps.
29. The Chamber Operator shall open the Outlet Valve (4), opening the gas generator drain valve first, and then opening the Inlet Valve (3).
30. Once the Inlet and Outlet Valves are fully open, the Chamber Operator shall inform the Chemical Operators to begin flushing.
31. The Chemical Operators shall open the water faucet, allowing additional water to flow into the mixing pot (9).

- The Chemical Operators shall observe the drainage of water from the mixing pot to ensure that the flushing is proceeding properly. During this period, the Chamber Operator shall perform the following functions:
    - a. The Chamber Operator and Chemical Operator #1 shall fully open the anhydrous ammonia tank valve, then open ammonia control valves (7) and (8) (on the regulators) gradually to reach the saturation to allow the effective neutralization of the residual chemicals in the chamber, gas generator and plumbing. After 30 seconds, both Operators shall close the ammonia tanks in the following sequence: The tank valves shall be closed first, and, after approximately 30 seconds, the regulator valves (7) and (8) shall be closed. This will allow the ammonia to drain from the piping. Anhydrous ammonia valves should be CLOSED OUT AT LEAST THREE MINUTES BEFORE OPENING THE CHAMBER DOOR.
    - b. After the Chamber is completely evacuated of gas and purged of the ammonia fumes, the Phenolphthalein in the petri dishes should turn red (pinkish) in color. This color change is an indication that the Chamber door may be safely opened. A member of the IV/Medical Team and Restraint Team now may enter, using masks for protection from any residual ammonia fumes. The Chamber Operator shall close the air valve lever (2).
  - CAUTION: Although smoke tests suggest that the Chamber is purged in approximately 3 to 5 minutes, it is recommended that the period between opening the exhaust and air inlet valves and opening the Chamber door be about 15 minutes. As a precautionary measure, it is recommended that the Physician and the Restraint Team removing the body wear hydrocyanic acid gas masks or approved respirators and rubber gloves and that the hair of the deceased inmate be ruffled in order to allow any residually trapped gas to escape. Close the Chamber door, but not tightened more than contact with the gasket, and aerate for one hour as necessary to clear any residual ammonia.
32. The Restraint Team shall hose down all the surfaces and the deceased inmate prior to removal from the chair.

# **Exhibit 9**



## Recitals

A. Whereas, on April 20, 2022, the District Court consolidated the cases of King and Middlebrooks for trial, set for October 4, 2022 (Case No. 3:18-cv-01234, DN 206);

B. Whereas, following complications during the planned execution of Oscar Smith, the parties have reached an agreement in principle regarding the immediate future of these cases;

C. Whereas, the Governor of Tennessee has engaged Ed Stanton III to review the State's lethal injection protocols (the "independent investigation");

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Execution Dates for King and Middlebrooks. A motion to set King's execution date will not be filed pursuant to Tenn. Sup. Ct. R. 12(4)(A) until a judgment is entered by the district court in case number 3:18-cv-01234 (M.D. Tenn.) or, in the event of an appeal from that judgment, until an opinion is issued by a panel of the United States Court of Appeals for the Sixth Circuit. In the event Middlebrooks's execution date is reset before the conclusion of a trial or other disposition of his complaint in case number 3:19-cv-01139 (M.D. Tenn.), Defendants will not oppose a motion for stay of execution for Middlebrooks filed in that district court case until a judgment is entered by the district court in that case or, in the event of an appeal, a motion for stay of execution filed under the relevant case number in the Sixth Circuit until an opinion is issued by a panel of the Sixth Circuit. If such a motion for stay is denied, Defendants also agree to advocate for another reprieve from the Governor until a judgment is entered by the district court or, in the event of an appeal, an opinion has been issued by a panel of the Sixth Circuit. If Defendants revise the July 5, 2018 protocol or adopt a new protocol before the district court enters a judgment in case number 3:18-cv-01234 or case number 3:19-cv-01139, Defendants will not object to that Plaintiff—i.e., King or Middlebrooks—amending his complaint one time within ninety (90) days of such revision or adoption to address such a revision or adoption in one count asserting a facial challenge to the revised or new protocol. Nothing in this agreement applies to other litigation outside of the district court case numbers 3:18-cv-01234 and 3:19-cv-01139 (M.D. Tenn.) and any appeal as of right to the Sixth Circuit from a judgment entered in those specific cases.

2. No Expedited Pre-Trial or Trial Following Independent Investigation. Defendants will not seek an expedited pretrial or trial schedule in the pending *King* and *Middlebrooks* federal litigation referenced above, following conclusion of the independent investigation. This should not be understood to waive opposition to any potential motions for an extension of time, motions to reopen discovery, and the like, or any protracted efforts at delay.

3. Independent Investigation. Defendants take no position on whether counsel for King and Middlebrooks should meet with independent counsel Ed Stanton III.

4. Discovery. All discovery will be stayed pending the conclusion of the independent investigation and the timely completion of related corrective action.

5. Summary Judgment & Stay Motions. Plaintiffs will not oppose Defendants' withdrawal of their summary judgment motion in the *King* litigation, and Plaintiffs will not oppose Defendants' motion for a stay in both the *King* and the *Middlebrooks* litigation.

6. Miscellaneous.

(a) This Agreement constitutes the entire agreement, understanding, negotiation, and discussion, whether written or oral, between the Parties. There are no covenants, conditions, agreements, representations, warranties or any other terms or provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof, except as herein provided.

(b) This Agreement is to be governed, interpreted, and enforced in accordance with the laws of the state of Tennessee. Exclusive venue for any disputes shall be in the United States District Court for the Middle District of Tennessee.

(c) No amendments or modifications of this Agreement shall be deemed effective unless made in writing and signed by the parties hereto.

(d) This Agreement may be executed in any number of counterparts, and such counterparts executed and delivered, each as an original, shall constitute but one and the same instrument. A photocopy, facsimile or other electronic signature of a party hereto has the same force and effect as an original signature of such party.

(e) Each Party has carefully read this Agreement and fully understands the scope and effect of its terms and has had an opportunity to consult with an attorney. No Party has relied on any representations or statements made by the other Party that are not specifically set forth in this Agreement. Each Party enters into and signs this Agreement knowingly and voluntarily, without duress or coercion of any kind whatsoever and with the intent of being bound by this Agreement and agree that the terms of this Agreement are reasonable.

(f) Each Party to this Agreement shall execute and deliver such documents and shall take such actions as may be reasonably necessary or desirable to effect the transactions described in this Agreement as mutually approved by their respective counsels.

(g) Each Party warrants that the persons executing this Agreement have the necessary and appropriate authority and capacity to execute this Agreement and to make this Agreement fully binding upon and enforceable against himself/herself or the entity he/she represents.

Executed to be effective on the same date Defendants' motion to stay is granted.

/s/ David R. Esquivel

David R. Esquivel  
Bass, Berry & Sims PLC  
150 Third Ave. South #2800  
Nashville, TN 37201  
Telephone: (615) 742-6200  
Email: desquivel@bassberry.com

*Counsel for Terry Lynn King*

/s/ Robert W. Mitchell

Robert W. Mitchell  
Tennessee Attorney General's Office  
P.O. Box 20207  
Nashville, TN 37202-0207  
Telephone: (615) 741-3491  
Email: robert.mitchell@ag.tn.gov

*Counsel for State of Tennessee, Lisa Helton,  
and Tony Mays*

/s/ Kelley J. Henry

Kelley J. Henry  
Federal Public Defender's Office (MD/TN)  
810 Broadway  
Suite 200  
Nashville, TN 37203  
Telephone: (615) 736-5047  
Email: kelley\_henry@fd.org

*Counsel for Donald Middlebrooks*